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(1<sup>st</sup> Annual Report)

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The Ontario Environmental Assessment Advisory Committee was established on July 4, 1983, to provide advice to the Minister of the Environment concerning requests for exemption from the provisions of the Environmental Assessment Act and concerning requests for the designation of undertakings so as to render them subject to the Act. The Committee advises on, and comments on, the reasons provided by the proponent for the exemption of an undertaking, in particular those reasons relating to public health and safety, economic necessity, and environmental impacts.

The Advisory Committee is providing a valuable public service as the only lay body to review requests for exemption and designation.

The Chairman of the Committee is Marie Corbett, Q.C., who practices administrative law, in Toronto. Ms. Corbett was called to the Ontario Bar in 1970, and was appointed Queen's Counsel in 1983. She was a member of the Ontario Municipal Board from 1974-1977 and was a member of the Hearing Panel on Industrial Waste Management. Her varied activities have included being President of the Canadian Environmental Law Association; lecturer in Environmental Law at Humber College; member of the Ontario Status of Women Council; and secretary of Ontario Legal Aid Task Force.

Solon Lamonte (Monte) Hummel, Executive Director of World Wildlife Fund Canada, enjoys an outstanding career in conservation and environmental activities. He currently is a member of World Wildlife Fund International Advisory Council; member, federal Canadian Environmental Advisory Committee; member of the board, Ontario Renewable Resource Research Grant Fund; director, Arctic International Wildlife Range Society; director, Canadian Coalition on Acid Rain; member, Canada/U.S. Environmental Council; member of the Executive Committee, Canadian Council on Ecological Areas; director, Canadian Committee for the International Union for the Conservation of Nature and Natural Resources; and member, Advisory Committee, Canadian Centre for Toxicology. For seven years (1974-1981) he coordinated the undergraduate program in environmental studies at the University of Toronto. He is perhaps best known as a founder and past executive director and chairman of the Pollution Probe Foundation. Mr. Hummel holds a M.A. in philosophy and a M.Sc.F. (Master of Science in Forestry) from the University of Toronto, and is an Honorary Fellow of Innis College. He received numerous academic and conservation awards.





Lorne Howard Maeck, a native of South River, was elected to the Ontario Legislature in 1971 as M.P.P. for Parry Sound and was re-elected in 1975 and 1977. He was Chief Government Whip from October, 1976 to January, 1978. He has also served as Parliamentary Assistant to the Ministers of Natural Resources and Education. On January 21, 1978, Mr. Maeck was appointed Minister of Revenue and he served in that portfolio until 1981, when he retired from politics. Before going to Queen's Park, he served for three years as Reeve of the Village of South River, and has operated several businesses in the community. For eight years he was a constable in the Ontario Provincial Police. During World War II he served in the Royal Canadian Air Force.

The terms of reference under which the Advisory Committee operates provide for three different kinds of review.

Category A, an open review, provides for public notice and consultation at the discretion of the Committee.

Category B, a defined review, provides for public notice and consultation to directly affected groups, their selection to be either by ministerial direction, or by the choice of the Committee.

In a Category C review, an internal advisory review, the Advisory Committee receives notice from the Minister indicating that for special reasons of economics, social, or public significance, the Minister has made a preliminary determination on a request for exemption or designation. The Committee is requested to provide advice to the Minister within a short time frame and there is no public notice for this category of referral.

The Advisory Committee provides advice to the Minister within a short time frame; the Advisory Committee must report on Category A referrals within six weeks, on Category B referrals within four weeks, and on Category C referrals within one or two weeks.

The Advisory Committee has dealt with many interesting and controversial matters. At the end of the fiscal year 1983-84 the Advisory Committee had reported to the Minister on ten referrals. Five were Category B and five were Category C referrals.





Six of the ten referrals were site specific. These included a request by the Ministry of Transportation and Communications to exempt Highway 403/407 in the Parkway Belt West System; and a request by the Toronto Transit Commission to exempt the proposed Park Home Subway Station. The request by the Minister of Community and Social Services and a number of community groups that the proposed Brimley Road interchange at Highway 401, in the City of Scarborough, be designated under the Environmental Assessment Act was also referred to the Committee. The last three site specific referrals included Gloucester Hydro's request to exempt a transformer sub-station in Gloucester; The Metropolitan Toronto and Region Conservation Authority's request to exempt shoreline management work along South Marine Drive; and the Regional Municipality of Halton's request to exempt the extension of the Burlington Landfill Site.

In addition to the six site-specific referrals, the Committee dealt with four matters of general application. On the first one the Advisory Committee gave advice to the Minister on how to deal with landfill site expansions for municipalities that do not meet the grandfather provisions of O.Reg. 293. (Under this provision, the proponent must have spent or tendered 25% of the cost of the site (exclusive of land) before December 31, 1983, to maintain the exemption). The second, third and fourth matters were requests for exemption by the Ministry of Natural Resources. One was for Wildlife population and habitat management; another was for disposition activities respecting Crown lands and Crown resources; and the last one was for the establishment of 149 provincial parks.

The Committee's report on each referral is entered into the Ministry's public record as soon as the Government's decision on the matter is made public. The reports are also available, upon request, at the Advisory Committee's offices.

The procedure and modus operandi of the Committee will be reviewed by the Minister at the end of the first year of operation.





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SECOND ANNUAL REPORT

ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE



Covering the period

April 1st, 1984 to March 31st, 1985





## ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE

COVERING THE PERIOD APRIL 1st, 1984 TO MARCH 31st, 1985

## INTRODUCTION

The Ontario Environmental Assessment Advisory Committee was established on July 4th, 1983, to provide advice to the Government through the Minister of the Environment concerning requests for exemption from the provisions of the Environmental Assessment Act and concerning requests for the designation of undertakings so as to render them subject to the Act. At the request of the Minister, the Committee advises on, and comments on, the reasons provided by the proponent for the exemption of an undertaking, in particular those reasons relating to public health and safety, economic necessity and environmental impacts.

The Environmental Assessment Act ensures that the potential effects on the environment of a proposal and its alternatives are assessed by requiring approval by the Minister of the Environment of undertakings after review of a document called an environmental assessment.

An environmental assessment is required to be prepared for all public sector undertakings, that is, all activities, proposals, plans, or programs of the Ontario Government, municipalities, and public bodies. Private sector undertakings are subject to the Act only when designated by regulation. A proponent may make a request to the Minister of the Environment for exemption from the Environmental Assessment Act for a particular project or undertaking. The Minister's decision granting an exemption is subject to cabinet approval.





Upon receipt of a request for exemption, the Minister may seek the advice of the Advisory Committee in one of three ways. The Minister indicates which of the following categories apply to a matter referred to the Committee for advice:

#### Category A

An Open Review - Public consultation is at the Committee's discretion. The Minister indicates the time frame within which the advice is required to a six week maximum. There is public notice by the Committee of the request for exemption or designation.

#### Category B

A Defined Review - Public consultation is limited to directly affected groups, selected by Ministerial discretion or by the Committee. The time frame is a maximum of four weeks from the Minister's request. The Committee may give notice to affected groups.

#### Category C

An Internal Advisory Review - The Minister may notify the Committee that, for reasons of economic, social or public significance, the Minister has made a preliminary determination on a request for an exemption or designation. The Committee's advice is provided within a time frame specified by the Minister. There is no public notice for this category.





## MEMBERSHIP OF ADVISORY COMMITTEE

The Chairman of the Committee is Marie Corbett, Q.C., who practices administrative law in Toronto. Ms. Corbett was a member of the Ontario Municipal Board from 1974-1977 and was a member of the Hearing Panel on Industrial Waste Management from 1981-1983. Her activities have included being President of the Canadian Environmental Law Association.

Solon Lamonte (Monte) Hummel, Executive Director of World Wildlife Fund Canada, enjoys an outstanding career in conservation and environmental activities. He is a member of the Canadian Environmental Advisory Committee; Canada/US Environmental Council and Ontario Renewable Resource Research Grant Fund; director of Arctic International Wildlife Range Society and Canadian Coalition on Acid Rain. He was the founder of and past chairman of the Pollution Probe Foundation. Mr. Hummel holds a M.A. in philosophy and a M.Sc.F. (Master of Science in Forestry) from the University of Toronto.

Lorne Howard Maeck, former Reeve of the Village of South River was elected to the Ontario Legislature in 1971 as M.P.P. for Parry Sound and was re-elected in 1975 and 1977. He was Chief Government Whip from October, 1976 to January, 1978. Mr. Maeck was appointed Minister of Revenue from 1978 to 1981, when he retired from politics.





## REFERRALS

During the 1984-85 period the Advisory Committee dealt with four referrals as follows:

### Referral No. 11 - Category C

By letter dated March 21st, 1984, the Honourable Andrew S. Brandt, requested the advice of the Advisory Committee on the request by the Honourable George Ashe, Minister of Government Services, for an exemption from the Environmental Assessment Act (EAA) to permit the conversion of the Bluewater Centre, South of Goderich, from a centre for the developmentally handicapped operated by the Ministry of Consumer and Social Services to a facility for young offenders.

In its report dated April 10th, 1984, the Advisory Committee recommended that the conversion of the Bluewater Centre in Goderich to a facility for youthful offenders be exempt from the Environmental Assessment Act. The Advisory Committee also recommended that a public meeting be convened in Goderich by the Minister of Correctional Services to which a member of the Environmental Assessment Branch of the Ministry of the Environment should attend. Any community concerns should be reported to the Minister of the Environment for consideration. The Advisory Committee recommended that a public meeting be held in any future conversion to ascertain the concerns of the community, if any.

By decision dated April 26th, 1984 (O. Reg. 243/84), the Minister granted the exemption with conditions.

### Referral No. 12 - Category B

By letter dated May 2nd 1984, the Honourable Andrew S. Brandt requested the advice of the Advisory Committee on the request by the Essex Region Conservation Authority for exemption under the EAA for a dredging proposal of





Turkey Creek, in the Township of Sandwich West. The Advisory Committee held a meeting for members of the affected public on May 28th, 1984 at which about 75 persons attended. The undertaking involved dredging and associated channel stabilization measures for about 4,430 metres along the lower stretches of Turkey Creek which originates within the City of Windsor.

In its report dated May 30th, 1984, the Advisory Committee found the application to be premature in two respects and recommended that the quality of dredgate material be more clearly determined and that the choice of method of proceeding with the undertaking insofar as the abutting landowners are concerned, (by acquisition or under the Drainage Act) be established. Such matters should be determined on notice to affected parties with an opportunity to make representations and should be determined, if possible, by the Environmental Assessment Board. Upon satisfactory determination of these matters by the Environmental Assessment Board or by the Ministry, the Advisory Committee recommended that an exemption be granted subject to conditions satisfactory to the Environmental Assessment Branch. The Advisory Committee also recommended that remedial action be taken to eliminate the public health hazard of polluted water in Turkey Creek.

By decision dated February 21st, 1985 (O. Reg. 115/85), the Minister granted the exemption with conditions.

#### Referral No. 13 - Category C

By letter dated July 27th, 1984, the Honourable Andrew S. Brandt requested the advice of the Advisory Committee on the request by the Markham Hydro Electric Commission for exemption from the EAA for the construction and operation of an electrical transformer station on two acres to be acquired by Markham Hydro in Markham to transform electrical current from 230KV to 27.6/160KV. The facility is needed to accommodate the major growth in the area.



In its report dated August 10th, 1984, the Advisory Committee recommended that the application by Markham Hydro Electric Commission for exemption from the EAA for the construction and operation of an electrical transformer station on Lot 6, Concession 4 in the Town of Markham be granted subject to the conditions contained in the draft order approved by the Ministry of the Environment and provided landscaping is commenced concurrent with the construction of the facility and to the standards required for landscaping in the Ontario Hydro class assessment.

By decision dated September 28th, 1984 (O. Reg. 641/84), the Minister granted the exemption with conditions including landscaping.

REFERRAL NO. 14 - Category A

By letter dated February 8th, 1985, the Honourable Andrew S. Brandt, requested the advice of the Advisory Committee with respect to requests by the residents of Gore's Landing and Plainville for designation of the proposal by the Ontario Educational Communications Authority (TVOntario) to construct a 498 foot broadcast transmission tower in the Township of Hamilton, County of Northumberland. The Advisory Committee held a public meeting on March 19th, 1985. Over 40 persons spoke at the meeting and 58 submissions in writing were received. Residents were concerned about aesthetic and community values, radiation effects and the lack of sufficient study respecting alternate sites.

In its report dated March 22nd, 1985, the Advisory Committee recommended that the proposed TVOntario broadcast transmission tower at Gore's Landing be designated under the EAA. By press release dated July 10th, 1985, TVOntario indicated it would no longer pursue erecting a tower at the proposed Gore's Landing site.





## APPLICATIONS FOR EXEMPTION

In addition to providing advice upon request, the Advisory Committee monitors all applications for exemption. The Ministry of Environment advises the Advisory Committee on a regular basis of the status of all requests for exemption and designation. The Advisory Committee maintains a list of all applications for exemption not referred to the Advisory Committee.

During the 1984-85 year, 36 applications for exemption were received of which four were referred to the Advisory Committee (cf. 1983-1984, when ten of 34 applications were referred). These applications for exemption or designation not referred to the Advisory Committee are as follows:

Town of Kemptville - New sewage treatment works

Ministry of Government Services - New OPP Office, Township of Broder,  
Municipality of Sudbury

Ministry of Government Services - Additional Courtrooms, Metro Courthouse

--- - Construction of Larch St. parking garage - Designation request by Grange  
Housing Work Group

Ministry of Government Services - New Registry office, Bracebridge

--- - Projects under the EAA - Designation request by Ontario Federation of  
Anglers and Hunters

County of Oxford - Interim expansion of Holbrook landfill site





Municipality of Chapple - Sewage works

Township of Sydenham - Water distribution system in the Hamlet of Leith -  
extension of existing exemption order

Town of Kirkland Lake - Sanitary sewage and treatment works

Township of Charlottenburgh - New sewage and water systems

Ministry of Natural Resources - Seismic survey projects

Ministry of Natural Resources - New fish culture facilities

Ministry of Natural Resources - Special employment program projects

Township of Tiny - Water supply and distribution system

Ministry of Natural Resources - Existing provincial parks

Ontario Hydro - Conductors and insulators on two lines, Harmer and Mississagi  
transformer stations

Ministry of Natural Resources - Forest Management

Hydro Electric Commission, City of Nepean - Electrical transformer substation

Township of Lochiel - Municipal water works

Ministry of Government Services - Airplane hangar, Thunder Bay Airport



Ministry of Government Services - Government office building, Sioux Lookout

--- - Re-development of Toronto Brick Works, - Designation request by Governor's  
Bridge Ratepayers' Association

Ministry of Transportation and Communications - Northern Airport program

Ministry of Government Services - Replacement of government offices, North Bay

Ministry of Transportation and Communications - Planning, design, construction,  
operation and maintenance of projects which fall within the class of projects  
described in Provincial Highways Program Class EA

Town of Whitchurch-Stouffville - Subdivision development - Designation request by  
the Preston Lake Environmental Association

Ministry of Government Services - Disposition of property & obtaining Planning  
Act approvals

Proctor & Redfern Group (Town of Grimsby) - Extension of Park Rd landfill site

Town of Parry Sound - Widening of Hwy 69B - Designation request by  
Mr. J. D. Jeffrey

Town of Fort Erie - Expansion of Bridge St. landfill site

Ministry of Government Services - Land management upon construction of MNR  
office, Red Lake

Township of Rutherford and George Island - Sewage works, Killarney





## CONCLUSION

Until the Advisory Committee was appointed, there was no public input in the exemption process. It is beyond question that the public interest in the process requires participation by or on behalf of the citizens of the Province in the exemption process of public sector undertakings. In the absence of such participation, the Government, under one hat, is exempting or approving projects undertaken by it under another hat without the requirement or benefit of public input.

The Environmental Assessment Advisory Committee has a unique and valuable role to play in the exemption process of the Environmental Assessment Act. Greater and more effective use of the Advisory Committee should be made in the future.





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# THIRD ANNUAL REPORT

ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE



Covering the period

April 1st, 1985 to March 31st, 1986



**THIRD ANNUAL REPORT**  
**ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE**  
**COVERING THE PERIOD APRIL 1st, 1985 TO MARCH 31st, 1986**

**INTRODUCTION**

The Ontario Environmental Assessment Advisory Committee was established on July 4, 1983, to provide advice to the Minister of the Environment concerning requests for exemption from the provisions of the Environmental Assessment Act and concerning requests for the designation of undertakings so as to render them subject to the Act.

The Environmental Assessment Act (EAA) ensures that the potential effects on the environment of a proposed undertaking and its alternatives are assessed and that there is a public review of a document called an "environmental assessment".

Environmental assessments must be prepared for all public sector undertakings, that is, all activities, proposals, plans, or programs of the Ontario Government, municipalities, and public bodies. Private sector undertakings are subject to the requirements of the Act only when designated by regulation. A proponent may make a request to the Minister of the Environment for exemption from the Environmental Assessment Act for a particular undertaking, and any individual or group may request designation of a private sector undertaking. The Minister's decision granting an exemption or making a designation is subject to cabinet approval.

Upon receipt of a request for exemption or designation, the Minister may seek the advice of the Committee. The Committee then carries out a review of the exemption or designation request and reports to the Minister with a recommendation. In its report, the Committee advises and comments on the reasons provided by the proponent and other parties for or against the exemption or designation of an undertaking, in particular those reasons relating to public health and safety, economic necessity and environmental impacts. The Committee's report is made public after the Minister has made a decision.

When referring a matter to the Committee, the Minister may indicate which of the following categories of review is to be used.

An Open Review - Category A

Public consultation is at the Committee's discretion. The Minister indicates the time frame within which the advice is required, to a six-week maximum. There is public notice by the Committee of the request for exemption or designation.





#### A Defined Review - Category B

Public consultation is limited to directly affected groups, selected by Ministerial discretion or by the Committee. The time frame is a maximum of four weeks from the Minister's request. The Committee may give notice to affected groups.

#### An Internal Advisory Review - Category C

The Minister may notify the Committee that, for reasons of economic, social or public significance, the Minister has made a preliminary determination on a request for an exemption or designation. The Committee's advice is provided within a time frame specified by the Minister. There is no public notice for this category.

In addition to its major function of providing advice on exemption and designation requests, the Committee monitors and maintains a list of all exemption and designation requests and the decisions respecting them. The public may request copies of the Committee's reports to the Minister and the list of exemption and designation requests, or may come to the Committee offices where a public file is maintained.

The Committee also provides, on request, advice to the Minister and the Ministry on other matters relating to environmental assessment. In February 1986, the Committee received a request from the Ministry's Environmental Assessment Branch to comment on a set of draft guidelines for the Environmental Assessment program. As of March 31, 1986 the Committee was completing its review of these guidelines.

#### **MEMBERSHIP OF ADVISORY COMMITTEE**

The Advisory Committee consists of three part-time members, including a Chairman, who are appointed by the Minister of the Environment.

The Chairman of the Committee is Marie Corbett, Q.C. who practices administrative law in Toronto. Ms. Corbett was a member of the Ontario Municipal Board from 1974 - 1977 and of the Hearing Panel on Industrial Waste Management from 1981 - 1983. She is Past President of the Canadian Environmental Law Association. Ms. Corbett was re-appointed Chairman on September 30, 1985 for a two-year term.





Until September 30, 1985 the other two members of the Committee were Solon Lamonte (Monte) Hummel, Executive Director of World Wildlife Fund Canada, and Lorne Howard Maeck, Minister of Revenue from 1978 to 1981, who were appointed to the Committee on July 4, 1983 for a two-year term. Dr. Philip H. Byer and Dr. Robert Gibson were appointed in their place on September 30, 1985 for a two-year term.

Dr. Philip Byer is an Associate Professor in the Department of Civil Engineering and the Institute for Environmental Studies at the University of Toronto. His teaching and research are in the areas of systems analysis, risk management and multi-objective evaluation for project decision-making in the environmental and transportation fields. Professor Byer is a member of the Association of Professional Engineers of Ontario.

Dr. Robert Gibson is an Assistant Professor in the Faculty of Environmental Studies at the University of Waterloo. He has authored numerous articles and submissions on acid rain, environmental enforcement, development in the North, environmental ethics and public participation. He has also written on the federal environmental assessment process and has co-directed an intensive study of the process in Ontario.

## REFERRALS

During the 1985-86 reporting period the Advisory Committee dealt with five referrals as follows:

### Village of Lucknow - New Sewage System - Referral No. 15

By letter dated May 17, 1985, the Honourable Morley Kells requested the Committee to conduct a Defined Review (Category B) and advise him on the request of the Village of Lucknow, in Huron County, for exemption under the EAA for the planning, design and construction of a new sewage system.

Subsequent to the referral to the Committee, the Village of Lucknow decided not to renew the option to purchase the controversial proposed site for the new sewage system. The Committee therefore submitted an interim report dated June 14, 1985, which recommended that the matter be deferred until the new proposed site of the sewage system had been selected by the Village of Lucknow, at which time the Committee would meet with persons and groups who were affected by the undertaking and would prepare a final report considering whether this sewage system should be exempted from the provisions of the Environmental Assessment Act.



By letter dated July 23, 1985, the Honourable Jim Bradley, Minister of the Environment, notified the Committee that he had decided to withdraw the referral and not consider the exemption request further.

Victoria Hospital - Energy from Waste Plant  
Referral No. 16

By letter dated October 9, 1985, the Honourable Jim Bradley requested the Committee to conduct an Open Review (Category A) and advise him on the request by Victoria Hospital, London, for exemption from the Environmental Assessment Act for an energy from waste incinerator plant. The proposed facility was a modification of the undertaking put forward by the same proponent and approved by a decision of the Joint Board (comprising members of the Environmental Assessment Board and the Ontario Municipal Board) dated October 18, 1983. In the current proposal the use of sewage sludge as fuel was deleted and the number of pollution control systems serving the three municipal waste incinerators was reduced from three to two.

By letter dated October 17, 1985, Victoria Hospital requested that their submission be withdrawn because the delay required by the Committee's Category A approach, which provides for a six-week review period and public consultation, would be too great for the timetable of the project.

In a letter dated November 25, 1985, the Honourable Jim Bradley acknowledged the withdrawal of the exemption request.

Consumers' Gas - Liquefied Natural Gas Facility  
Referral No. 17

By letter dated October 30, 1985, the Honourable Jim Bradley requested the Committee to conduct an Open Review (Category A) and advise him on the requests by 165 residents of Northumberland County for designation of the proposal by Consumers' Gas to construct and operate a liquefied natural gas storage facility in Haldimand Township, Northumberland County. The Committee held a public meeting on November 28 and 29, 1985. Over 60 persons spoke at the meeting and 67 written submissions were received. Residents were concerned about safety, the appropriateness of placing this facility at this site, and potential environmental impacts regarding air quality, noise and ground and surface waters.





In its report dated December 12, 1985, the Committee recommended that the proposed liquefied natural gas storage facility be designated under the Environmental Assessment Act.

By letter dated December 19, 1985, the Honourable Jim Bradley acknowledged receipt of the Committee's report and requested additional information on environmental impacts. The Committee issued an Outline of Potential Environmental Impacts dated January 17, 1986. In it were tabulated many concerns raised by the public and the corresponding positions of the proponent, Consumers' Gas. The concerns raised included safety and risk of leakage and explosion, effects on heritage and rural/agricultural character of the area, psychological/family stresses, air and water quality, noise impacts, and biological impacts.

By decision received on February 19, 1986, the Minister informed the Committee of his decision to incorporate certain environmental elements into the Ontario Energy Board hearing process and not to designate the undertaking under the Environmental Assessment Act.

**Association of Conservation Authorities of Ontario - Fish and Wildlife Habitat Manipulation Activities**  
**Referral No. 18**

By letter dated March 26, 1986, the Honourable Jim Bradley requested the Committee to conduct a Defined Review (Category B) and advise him on the request by the Association of Conservation Authorities of Ontario for exemption of fish and wildlife habitat management projects conducted by the 38 conservation authorities in Ontario.

A report by the Committee is due on May 1, 1986.

**Township of Colchester South - Sewage Works - and Township of Sidney - Waterworks - Referral No. 19**

By letter dated March 27, 1986, the Honourable Jim Bradley requested the Committee to conduct an Internal Advisory Review (Category C) and advise him on requests for extension to Exemption Order MUNI-1, regarding municipal sewage works in the Township of Colchester South and municipal water works in the Township of Sidney.

The Committee's report is due on April 17, 1986.



## MONITORING OF REQUESTS FOR EXEMPTION AND DESIGNATION

In addition to providing advice upon referral by the Minister, the Advisory Committee monitors all requests for exemption or designation. During the 1985-86 reporting period, the Committee was informed by the Ministry of the Environment of requests for the exemption or designation of 46 undertakings. Table 1 below summarizes their status as of March 31, 1986.

Table 1

Undertakings for which Exemption or Designation was Requested  
April 1, 1985 to March 31, 1986

	<u>Exemption</u> <u>Requests</u> (number)	<u>Designation</u> <u>Requests</u> (number)
Total Undertakings	<u>31</u>	<u>15</u>
Granted	<u>15</u>	<u>0</u>
Not Granted	0	5
Pending	15	8
Other*	1	2
Referred to EAAC	3	1

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\* Other includes requests that were withdrawn or resolved.

Source: EAAC's List of Exemption/Designation Requests.

There were the same number (31) of undertakings for which exemption was requested in the current year as there were in the previous year. However, there was a three-fold increase in 1985-86 in the number of undertakings for which designation was requested, there having been 5 such requests in 1984-85 compared to 15 requests in 1985-86.

In 1985-86 the Committee received referrals on four of the 46 undertakings for which there were requests in the current year plus a referral on an exemption request that was made in the 1984-85 fiscal year. There were four referrals to the Committee in the previous year.





## THE ROLE OF THE ADVISORY COMMITTEE

Although the Advisory Committee has functioned for only three years, its performance has already been subject to study and comment.

In a draft report on environmental assessment in Ontario dated November 29, 1985, the Canadian Environmental Law Research Foundation stated:

"Within the limitations of its mandate and terms of reference, the Committee has earned respect for its evident efficiency, independence and devotion to openness where permitted." (p. 29)

In his final report dated June 1985, Mr. J.E.J. Fahlgren, Commissioner for the Royal Commission on the Northern Environment, stated:

"...I am much encouraged by the Committee's present procedures, particularly with the emphasis on timely consideration of undertakings referred to it and with the openness of its review process - including public access to its reports to the Minister after a decision is made." (page 3-16)

The general view stated in both these reports is that the Committee has lived up to its potential within its mandate but greater and more effective use of the Committee could be made. The reports of both the Canadian Environmental Law Research Foundation and the Royal Commission on the Northern Environment contained recommendations that the Committee be empowered to review all requests for exemption and designation - not just those referred to it by the Minister. Commissioner Fahlgren further recommended that the Committee could advise the Minister on a whole range of other matters, including the Ministry of the Environment Guidelines for Pre-Submission Consultation, class assessment procedures and "bump-up" provisions, criteria for funding public participation in the environmental assessment process and review of funding applications, and procedures for resolving interprovincial and federal/provincial conflicts.

Both reports also address the need for greater openness and public participation in the exemption/designation process.



## CONCLUSION

Until the Advisory Committee was established, there was no public input in the exemption and designation process. The public interest requires participation by or on behalf of the citizens of the province in this process. In the absence of such participation, the government under one hat is exempting or approving projects undertaken by it under another hat without the requirement or benefit of public input.

The Environmental Assessment Advisory Committee has a unique and valuable role to play, advising the Minister on specific exemption and designation requests and monitoring all requests for exemption or designation under the Environmental Assessment Act. Greater use of the Committee should be made in the future.





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*4th Annual Report*  
**1986-1987**





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**FOURTH ANNUAL REPORT**

**ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE**

**Covering the period**

**April 1, 1986 to March 31, 1987**

Dr. Philip H. Byer, Chairman  
Dr. Robert B. Gibson, Member  
Ms. Christine S. Lucyk, Member





FOURTH ANNUAL REPORT  
ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE  
COVERING THE PERIOD APRIL 1st, 1986 TO MARCH 31st, 1987

## INTRODUCTION

The Ontario Environmental Assessment Advisory Committee provides advice to the Minister of the Environment on matters relating to the application of the Environmental Assessment Act to public and private sector projects and activities in Ontario. The Committee, consisting of three members selected from outside the government, was established on July 4, 1983 following concerns about the lack of public input into the Minister's decisions on what projects should be subject to the requirements of the Environmental Assessment Act.

This Act requires the proponent of a proposed undertaking to follow a planning process which addresses potential environmental concerns. The proponent must state the purpose of the undertaking, examine the potential environmental effects of the undertaking and alternatives to it, consider means of mitigating adverse environmental impacts, and prepare a document called an environmental assessment which sets out this information. Under the Act, there is a formal review of this document by both government and the public, and the public may also request a hearing on the matter before the Environmental Assessment Board.

The Environmental Assessment Act states that environmental assessments must be prepared for all public sector undertakings, which include enterprises, activities, proposals, plans, or programs of the Ontario Government, municipalities, and other public bodies such as Ontario Hydro. However, certain categories of public activities and undertakings judged not to have major environmental impacts have been excluded from the Act. Further, a public sector proponent may make a request to the Minister of the Environment to exempt a public undertaking from the requirements of the Act.

Private sector undertakings are subject to the requirements of the Act only when specifically designated. Any individual or group may request the designation of a private sector undertaking. The Minister's decision to exempt or designate an undertaking is subject to the approval of Cabinet.

Some undertakings are subject to what is called a class environmental assessment. A class assessment is used to deal with a class of projects which have common essential characteristics, occur frequently and are relatively minor in scale.

Class assessments often have a provision which gives individuals the right to request that an undertaking be "bumped-up" to a full, individual environmental assessment. If such a request is made, the Minister must decide whether the full environmental assessment process is appropriate.

Upon receipt of a request for exemption, designation, or bump-up, the Minister may seek the advice of the Committee. The Committee then carries out a review of the request and reports to the Minister with its recommendation.

In its advice to the Minister, the Committee comments on the reasons provided by the proponent and other parties for or against the exemption or designation of the undertaking. The Committee generally considers issues such as the potential environmental impacts of the undertaking, the adequacy of other statutory approvals as a means of addressing environmental concerns, other opportunities for public input, and the urgency of proceeding with the undertaking. The Committee does not take a position on whether or not the undertaking should be approved; instead it determines whether or not the use of the Environmental Assessment Act is appropriate. The Committee's report is made public after the Minister has made a decision.

During 1986-87, the Committee reported to the Minister on 3 exemption requests and 3 designation requests. The Committee also provides, on request, advice to the Minister on other matters relating to environmental assessment in Ontario. The Minister requested the advice of the Committee on two other matters during 1986-87. A brief description of all 8 referrals is provided in this report.

When referring a matter to the Committee, the Minister may indicate which of the following types of review is to be undertaken by the Committee.

**Open Review** Public consultation is at the Committee's discretion. The Minister indicates when the advice is required, to a six-week maximum. The Committee gives public notice of the request for exemption or designation and, in practice, holds a public meeting.

**Defined Review** Public consultation is limited to directly affected groups, selected by the Minister or the Committee. The Committee's advice is generally required within a maximum of four weeks. The Committee may give private notice to and hold a meeting with affected groups.

**Internal Review** The Minister may notify the Committee that, for reasons of economic, social or public significance, the Minister has made a preliminary determination on a request for an exemption or designation. The Minister indicates the time within which the advice is to be provided. There is no public notice or consultation.

In an Open Review the Committee gives notification of the referral to a wide range of interested groups and individuals, including the proponent, directly affected local residents, local news media, environmental groups across Ontario, and relevant government agencies. The Committee requests that notified parties provide comments on the referral either in writing or in person at a public meeting held near the location of the proposed undertaking.

The Committee maintains a public file for each referral and copies of the Committee's reports to the Minister are available to the public on request.

The Committee also monitors and maintains a list of all exemption, designation and bump-up requests and the decisions respecting them. This list is also available to the public on request.

#### **MEMBERSHIP AND OPERATION OF ADVISORY COMMITTEE**

The Advisory Committee consists of three part-time members, including a chairman, who are appointed by the Minister of the Environment.

Dr. Philip Byer was appointed chairman of the Committee in November 1986, replacing Marie Corbett Q.C. who tendered her resignation in May 1986. He has served as a member since October 1985 and as acting chairman following Ms. Corbett's resignation. Dr. Byer is an Associate Professor in the Department of Civil Engineering and the Institute for Environmental Studies at the University of Toronto. His expertise is in risk management and project evaluation in the environmental and transportation fields.

Dr. Robert Gibson has been a member of the Committee since October 1985. He is an Assistant Professor of Environmental Studies at the University of Waterloo. His work has centred on environmental ideology, policy and regulatory issues. Dr. Gibson recently co-directed an intensive study of the environmental assessment process in Ontario for the Canadian Environmental Law Research Foundation.

Christine Lucyk was appointed as a member in November 1986. She works for the Coopers and Lybrand Consulting Group where she specializes in economic analysis relating to resource management and development. Ms. Lucyk has broad experience dealing with urban and regional planning and environmental issues.

The Committee operates with the assistance of a part-time co-ordinator, part-time researcher and full-time secretary. Leslie Cooper has been co-ordinator of the Committee since May 1985. Peter Pickfield, an environmental lawyer, has been assisting the Committee as researcher since August 1986. Trish Shayne joined the staff as secretary in February 1987 replacing Chris Edington.

The operating cost of the Committee during the 1986-87 reporting year was approximately \$120,000. The chairman and members are remunerated at rates of \$225 per day and \$150 per day respectively.

## REFERRALS

During the 1986-87 reporting period, the Committee dealt with 8 referrals from the Minister.

Three exemption requests were referred to the Committee:

- . fish and wildlife habitat manipulation activities by Conservation Authorities (Referral No. 18);
- . municipal sewage works in the Township of Colchester South and municipal water works in the Township of Sidney (Referral No. 19);
- . waterfront development project in the City of Hamilton (Referral No. 25).

Three designation requests were referred to the Committee:

- . waterslide park in the City of Scarborough (Referral No. 20);
- . hydro electric project on the Magpie River (Referral No. 22);
- . deer hunting in the Peterborough Crown Game Preserve (Referral No. 23).



The Minister also requested the advice of the Committee on two other matters:

- approval of the Ministry of Natural Resources' Class Environmental Assessment for Fishery Reclamation (Referral No. 21);
- the Ministry of the Environment's proposed policy on the exemption of interim expansions of municipal landfills (Referral No. 24).

These referrals are summarized below.

Fish and Wildlife Habitat Manipulation Activities by  
Conservation Authorities - Request for Exemption - Referral  
No. 18

On March 26, 1986, the Honourable Jim Bradley, Minister of the Environment, asked the Committee to conduct a Defined Review on the request dated September 27, 1985 by the Association of Conservation Authorities of Ontario to exempt, from the Environmental Assessment Act, fish and wildlife habitat manipulation activities conducted by the 38 Conservation Authorities in Ontario.

The activities which would fall within the exemption include habitat improvement such as debris removal, stream maintenance and improved access. The Committee notified and received submissions from selected environmental groups and government agencies.

The Committee submitted its report to the Minister on May 1, 1986, recommending exemption but limiting this exemption to those activities which "do not include measures which have or may have any significant detrimental effect on any species." On January 14, 1987, fish and wildlife habitat management activities were exempted from the Act by a change in Regulation 293. However, the exemption did not use the limited definition of habitat management activities suggested by the Committee.

Municipal Sewage Works, Township of Colchester South, and  
Municipal Water Works, Township of Sidney - Request for  
Exemption - Referral No. 19

On March 27, 1986, the Minister requested the Committee to conduct an Internal Review on the request dated December 17, 1985 by the Environmental Approvals and Project

Engineering Branch of the Ministry on behalf of the Townships of Colchester South and Sidney to extend Exemption Order MUNI-1, which had recently expired. Originally, this exemption order had been granted in order to extend the phasing-in provisions of Ontario Regulation 293 to various municipal sewage and water works projects. Of the municipalities to which the original exemption order applied, only Colchester South and Sidney required an extension of the exemption.

The Committee consulted representatives of the two townships and the Ministry and submitted its report on April 17, 1986. The Committee recommended that the request to extend Exemption Order MUNI-1 for the two projects be granted. It was recommended that the exemption to the Township of Sidney be conditional on compliance with the proposed Class Environmental Assessment for Municipal Sewage and Water Projects. On June 2, 1986, the Minister announced his decision to grant these exemptions with the conditions set out in the Committee's recommendations.

Scarborough Waterslide Park - Request for Designation -  
Referral No. 20

On April 15, 1986, the Minister asked the Committee to conduct an Open Review on the request dated February 24, 1986 by local residents and by Ms. Ruth Grier, MPP, for designation of the construction and operation of a waterslide park proposed by 401 Water Park Inc. on lands owned by the City of Scarborough. The Committee received written submissions as well as oral submissions at a public meeting held on May 20, 1986 in Scarborough. The principal concerns identified by the area residents were the effect of constructing a waterslide park on a former landfill site, increased traffic and noise, and the inadequacy of public information and consultation. The proponent indicated a desire to begin construction that summer and argued that an environmental assessment would delay the start date.

On May 27, 1986 the Committee submitted its report recommending designation. On July 11, 1986, the Minister announced his decision against designation. Following the Minister's decision a local residents' association brought an application in Divisional Court for a ruling that the project is subject to the Act as a municipal undertaking. On August 27, 1987, the court ruled that the project is not subject to the Act since it is a private undertaking and not under the control of the municipality. As of September 15, 1987, construction of the project had not begun.

Class Environmental Assessment for Fishery Reclamation -  
Request for Advice on Approval of Undertaking - Referral  
No. 21

On April 15, 1986, the Minister asked the Committee to conduct an Open Review on the Ministry of Natural Resources' Class Environmental Assessment for Fishery Reclamation. Fishery reclamation is the process of removing, generally through the use of a pesticide, "undesirable" species of fish from certain water bodies and introducing "desirable" species to improve sport fishing or to establish a fish hatchery.

The Committee requested written comments from approximately 60 organizations and government agencies and received 19 submissions. The submissions expressed concerns about the use of the proposed pesticide, rotenone, and its impact downstream, the effect of transforming a diverse aquatic community to a single species community, and the lack of available information on the long-term effects of fishery reclamation.

The Committee submitted its report to the Minister on June 16, 1986, recommending approval of the Class Environmental Assessment subject to a number of specific conditions aimed at ensuring that environmental safeguards and adequate opportunities for public involvement are in place.

In April 1987, the Minister further asked the Committee to provide advice on Conditions of Approval drafted on the basis of the recommendations in the Committee's report. The Committee provided the Minister with a supplementary report on April 22, 1987, recommending certain changes and additions to the draft conditions. On May 8, 1987, the Minister approved the Class Environmental Assessment subject to conditions which met the concerns of the Committee.

Magpie River Hydro-Electric Development Project - Request  
for Designation - Referral No. 22

On August 13, 1986, the Minister asked the Committee to conduct an Open Review on the request by local residents and others for designation of a hydro-electric project on the Magpie River proposed by Great Lakes Power Limited. The first designation request was dated January 17, 1986. The project involves harnessing water flows at three waterfalls along the Magpie River in the Algoma Region for the generation of hydro-electric power. The cost of the project was estimated to be \$104 million. At the time of the referral



to the Committee, Great Lakes Power Limited was in the final stages of preparing a set of environmental impact reports as part of an "informal environmental assessment process" that it was undertaking in consultation with the Ministry of the Environment.

On September 4 and 5, 1986, the Committee held a public meeting in Wawa, near the proposed sites. Concerns were raised at the meeting about biophysical, economic and social impacts of the project including those caused by the flooding of lands and the regulation of water flows. Opponents argued that the project would have negative effects on fishing and recreational activities along the Magpie River and reduce flows at the three waterfalls which would adversely affect the tourism industry in the region. It was also argued that the informal environmental assessment process did not ensure meaningful public consultation and review, or provide for the possibility of a public hearing. Great Lakes Power Limited submitted that the requirements of the Environmental Assessment Act would significantly delay the project and thereby threaten its viability.

The Committee submitted its report to the Minister on September 26, 1986 recommending that the proposed project be designated under the Environmental Assessment Act as soon as possible. In the Committee's view, the project involved significant potential environmental impacts, not all of which would be adequately addressed by approvals required under other legislation, the informal assessment process would be an inadequate substitute for the full EA process, and immediate designation would not result in undue delay. On March 5, 1987 the Minister announced the decision not to designate the project. Necessary statutory approvals have been obtained and construction is underway.

#### Deer Hunt in the Peterborough Crown Game Preserve - Request for Designation - Referral No. 23

On September 25, 1986, the Minister asked the Committee to conduct an Open Review on a request dated July 21, 1986 by local residents for designation of a two week deer hunt, beginning November 3, 1986, in the Peterborough Crown Game Preserve proposed by the Ministry of Natural Resources.

The Committee held a public meeting on October 17, 1986 in Apsley just outside the Preserve. Proponents of the hunt submitted that deer over-population was exerting pressure on the food supply in the Preserve resulting in starvation and



disease. Opponents argued that the hunt was not necessary, that Ministry of Natural Resources' data on the deer population were unreliable, and that the unique wildlife viewing opportunities which the Preserve had provided in the past would be lost if hunting were allowed.

On October 27, 1986, the Committee submitted its report to the Minister recommending against designation of the 1986 hunt, thus allowing the hunt to proceed, provided that the Ministry of Natural Resources agreed to complete a public planning process for wildlife management activities in the Preserve before further hunting takes place. The Committee recommended a number of specific requirements for this planning process, to be set out in a separate exemption order for wildlife management in the Preserve, and that the 1986 hunt was to be used as an opportunity to collect information that will assist this process. The Committee also recommended that prior to undertaking this planning process, Cabinet clarify the purpose of the Peterborough Crown Game Preserve by ruling on whether the Preserve is to provide and enhance deer hunting opportunities, or to facilitate wildlife viewing and appreciation, or to serve both objectives.

On October 30, 1986, the Minister of the Environment announced that he and the Minister of Natural Resources had accepted the Committee's recommendations. The 1986 hunt went ahead as planned. On June 4, 1987 the Ministry of Natural Resources submitted an exemption request for wildlife management in the Preserve as recommended by the Committee. However, as of that date, no action had been taken on the Committee's recommendation that Cabinet address the purpose of the Preserve.

#### Interim Expansion of Municipal Waste Landfills - Policy on Exemption Requests - Referral No. 24

On November 13, 1986, the Minister asked the Committee for advice on a proposed policy to deal with exemption requests by municipalities for expansion of existing sanitary landfill sites. The Committee, which was asked to carry out a Defined Review, requested submissions from a wide range of interested parties and reviewed several exemption requests to which the policy would apply.

The proposed policy would apply only to municipalities which have begun a formal environmental assessment process to meet their long-term waste management needs, but require a short term expansion of an existing sanitary landfill site, as an interim measure, until the long-term plan is in place.

The Committee submitted its report to the Minister on January 22, 1987 recommending that the proposed policy be developed further. In its recommendations, the Committee set out 19 specific criteria which must be met before an exemption is granted. These included the following:

- . the proposed expansion must be for a maximum of three years;
- . the municipality must demonstrate that no viable alternative to expansion exists;
- . the municipality must have undertaken a meaningful public planning process for the proposed expansion, including a public meeting;
- . a public hearing under the Environmental Protection Act must take place.

The Committee also recommended that, if an exemption request does not clearly meet all of the criteria, then the request should be scrutinized further on a case-by-case basis and the Committee should be involved in the review of the request. The report also set out specific conditions to be included in a model exemption order to be used as an aid in the drafting of individual exemption orders.

The Minister has agreed to consult the Committee prior to final adoption of the policy, screening criteria and model exemption order.

#### Hamilton Waterfront Development - Request for Exemption - Referral No. 25

On February 18, 1987, the Minister asked the Committee to conduct an Open Review on an exemption request dated July 30, 1986 by the City of Hamilton for a proposed waterfront development project. The project, at an estimated cost of \$40 million, involves changes to existing landforms and extensive development of recreational facilities on the central part of the Hamilton waterfront, as well as a strategy for improving transportation connections between the City and the waterfront.

The Committee held a public meeting in Hamilton on March 24, 1987. Local residents and environmental groups expressed concerns about potential impacts from building on a former industrial landfill site, dredging and dredgeate disposal, the creation of artificial islands, and increased traffic and noise in the area.

On April 1, 1987, the Committee submitted its report to the Minister recommending that the project not be exempted from the Environmental Assessment Act. In the Committee's view, the proposed undertaking involves potentially significant impacts in an area of international environmental concern. Despite a commendable open public planning process, unresolved environmental issues remain and a comprehensive public review of these impacts and possible mitigation measures were not assured through other required approvals. Furthermore, implementation of the undertaking was not urgent.

On June 9, 1987, the Minister informed the City that an exemption would not be granted.

## MONITORING OF REQUESTS

In addition to providing advice to the Minister of the Environment on individual requests for exemption, designation or bump-up, the Committee monitors all such requests. During the 1986-87 reporting year, the Minister received exemption requests for 41 undertakings, designation requests for 22 undertakings, and a bump-up request for one undertaking. Table 1 below summarizes the status of these requests updated to June 30, 1987.

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**Table 1**  
Undertakings for which Exemption, Designation, or Bump-Up  
was Requested - April 1, 1986 to March 31, 1987

	Exemption	Bump-Up	Designation
<b>Total Requests</b>	41	1	22
<b>Status (June 30, 1987)</b>			
Granted	25		2
Denied	12	1	5
Pending	3		7
Other*	1		8
<b>Referred to EAAC</b>	1	0	1

\* Other includes withdrawn undertakings, withdrawn requests and undertakings under Federal jurisdiction.

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Two of these 64 requests were referred to the Committee during the reporting year. Of the six other referrals completed by the Committee during the year, four were on requests made in the previous year, and two were on matters not involving individual requests.

**Exemption Requests** Twenty-one of the 41 exemption requests made to the Minister during the reporting period were for projects undertaken by local or regional municipalities. Twelve of these involved municipal sewage or water supply projects. Nine of these requests have been denied since the projects will now be subject to the Class Environmental Assessment for Municipal Sewage and Water Projects which came into effect on April 9, 1987. Three requests were made by municipalities undertaking interim expansions of existing sanitary landfill sites; two were granted and the third request is pending. In the future, requests such as these may be subject to the policy which was reviewed by the Committee in Referral No. 25 and is being finalized by the Ministry.

Seven exemption requests were received from the Ministry of Government Services, five of which were for the construction of buildings to house the activities of other government agencies. Five other requests involved hydro-electric facilities, three from Ontario Hydro, and two from local hydro commissions for transformer stations. The Ministry of Natural Resources requested exemptions for three undertakings: construction of a road link for forestry activities, a time extension for an exemption of special employment programs, and a time extension for an exemption of the implementation of management programs for existing provincial parks. The Ministry of the Environment made two requests: one for the temporary management of contaminated wastes at a private disposal site, and the other for the clean-up of coal tar material from the Welland River.

**Designation Requests** Table 2 shows the number of designation requests for private and public sector undertakings received by the Minister during each of the past three years. Public sector designation requests are for public undertakings which have previously been exempted from the Environmental Assessment Act.



**Table 2**

Designation Requests - April 1, 1984 to March 31, 1987

Year	Private Sector	Public Sector	Total
1984-85	2	3	5
1985-86	9	6	15
1986-87	15	7	22

The table indicates a significant rise in the number of designation requests, particularly for private sector undertakings. The 15 private sector undertakings which were the subject of designation requests in 1986-87 included projects such as the redevelopment of Toronto railway lands, construction of a marina, construction of an access road for mineral extraction, a clay excavation operation, a re-refinery facility for spent oil, and four waste processing and disposal facilities.

Two of the private sector designation requests received during the past year involved proposals for energy-from-waste (EFW) incineration facilities: one in Mississauga, and the other in Toronto. On March 13, 1987, the Minister of the Environment announced that all EFW facilities that handle more than 100 tonnes of waste per day will be subject to the Environmental Assessment Act, and released a policy statement on the application of the Act to these private facilities. This marks the first time that the Act has been extended to cover a class of private sector activities. Since this policy statement was announced, the EFW project in Mississauga has been designated by regulation. A regulation for the designation of the proposed facility in Toronto is being finalized by the Ministry.

Further information on exemption, designation and bump-up requests can be obtained from the Committee.



## SUMMARY REMARKS: ISSUES AND OPPORTUNITIES

The Environmental Assessment Advisory Committee has continued to serve its original purpose as a vehicle for independent and public input into the important threshold question of whether or not the Environmental Assessment Act should apply to a particular undertaking. During the past year, the Committee also provided the Minister with advice on other policies and decisions related to environmental assessment and continued to monitor the exemption/designation process.

Experience over this past year has reaffirmed the usefulness of the Committee's public meetings. Not only do these meetings provide an opportunity for the Committee to hear from the proponent and the public on the specific exemption/designation question, but they also provide important opportunities for the proponent to present its proposal publicly and to hear comments on it. Indeed, Committee meetings can provide the first opportunity for public dialogue on a proposal. Last year, for example, the Committee provided the first public forum for a meaningful exchange of views on proposals involving the construction of a waterslide park (Referral No. 20), and a deer hunt in a Crown game preserve (Referral No. 23).

In its review of specific exemption and designation requests on a case-by-case basis, and through monitoring the exemption/designation process and environmental assessment in general, the Committee has identified a number of specific issues which present opportunities for improving environmental assessment in Ontario. These are set out below.

### The Exemption/Designation Decision Making Process

**Private Sector Designation** The Environmental Assessment Act does not apply to major private sector undertakings unless they are expressly designated by regulation, and private sector proponents have seldom been required to deal with the requirements of the Act. Two recent developments may be an indication of a change in this pattern. First, as noted in the previous section of the report, the number of requests by members of the public for designation under the Act has increased dramatically over the last three years. Second, in March 1987, the government, for the first time, extended the application of the Act to a specific type of private sector undertaking, energy-from-waste facilities. The increase in requests suggests that more members of the public are becoming aware of the purpose and benefits of the

environmental assessment process. The designation of energy-from-waste facilities indicates that the government also recognizes the value of the environmental assessment process for major private sector undertakings with potentially significant environmental impacts.

In its recent referrals involving private sector proponents, the Committee has observed a number of problems related to designation requests. One set of problems stems from the uncertainty about when the Act should apply. In cases such as the Magpie River project, where designation appears to be appropriate but is denied, those in favour of designation will be frustrated by the lack of publicly stated criteria for the decision. For cases where designation is not appropriate, time and energy is wasted by all parties in dealing with the request.

Members of the public who are concerned about a proposed undertaking would be better able to assess whether or not they should expend time and energy on a request if there was guidance available on what types of concerns are appropriately addressed through a designation. Further, proponents would be assisted if they had a preliminary indication of the appropriateness of environmental assessment under the Act at an early stage in the development of an undertaking. Thus, policies and guidelines should be developed to assist participants in the process in determining the applicability of the Act to private sector undertakings.

A second problem which arose in both of the referrals received in 1986-87 involving private sector projects was the proponents' perception that time delays and associated costs of full environmental assessment would have threatened the viability of the undertakings. This, rather than environmental concerns, appeared to be the determining factor in the decisions not to designate these private sector undertakings under the Act. It is important to respond to these concerns by ensuring that proper environmental assessment of private as well as public sector undertakings can proceed without unnecessary delays. This should be done as part of the Ministry's recently announced Environmental Assessment Program Improvement Project.

**Timing of Decisions** In a number of referrals during this past year, involving both exemption and designation requests, the Committee noted that there were lengthy delays prior to the decision on the application of the Act to a particular undertaking. These delays can occur at one or more of three periods in the process:

- prior to submission of a designation or exemption request,
- following submission of the request and prior to referral to the Committee, and/or
- following submission of the Committee's advice and prior to the Minister's decision.

In the case of the Hamilton Waterfront project lengthy delays occurred during the first two periods identified above. In that case, the City did not submit a request for exemption until 9 months after it had made a decision to develop the project. Referral to the Committee did not occur until six months after the request was submitted. During these periods, the City chose to put off undertaking certain studies which would be required as part of a full environmental assessment. When the exemption request was later refused, planning for the project was already well advanced and the proponent was in the position of having to backtrack to meet specific environmental assessment requirements.

The Ministry should strongly advise public sector proponents that if an exemption is to be sought, the request should be submitted as early as possible following a decision to develop an undertaking and that the environmental assessment process should be followed until a decision on the exemption request is made. Furthermore, the proponent should understand that delays caused by not following this advice cannot later be used as a reason for exemption.

Following submission of a request, the Ministry needs some time to gather information on the merits of the request and decide whether seeking the Committee's advice would be useful. However, for two recent referrals, the Hamilton Waterfront project and the Magpie River project, the decision to refer the matter to the Committee took 6 and 7 months respectively. In both cases, the referral could have been made much earlier. Little new information was obtained following the request that would have assisted in deciding whether the request should be referred to the Committee.

Review of a request by the Committee can be of most benefit if the matter is referred to the Committee at the earliest opportunity. Since the Committee monitors exemption and designation requests it can assist in avoiding unnecessary delays by helping to identify cases where Committee review would be useful.



Following submission of the Committee's advice, the time taken to make the final decision on exemption or designation can also be a significant source of delay. For the last eight designation/exemption requests reviewed by the Committee, the time taken for post-Committee decision making ranged from a few weeks to eight months.

One effect of these delays has been to increase concerns of proponents that the environmental assessment process will add time and costs to their projects. Such delays can have a greater negative effect on private sector projects than public ones since private proponents are not required to comply with the requirements of the Act unless and until a designation decision is made. If a decision is not made early, designation will always force private proponents to backtrack to meet specific environmental assessment requirements. In the two referrals involving private sector projects last year, project planning was at an advanced stage at the time of both the referral and decision. The Committee, and the Minister, were unnecessarily required to consider arguments about the negative effects of backtracking.

If a decision on designation was made early in the proponent's planning process, these problems would be minimized. Timely decisions on the application of the Act would give proponents a better idea of the kind of planning that is required of them. The public would also benefit, since they would have an opportunity to become involved in the planning process at an early stage.

The development of criteria which clarify the bases for decision making on private sector designation requests, and indicate the types of private sector proposals to which the Act should apply, could help to speed designation decisions.

**Combined Public and Private Sector Undertakings** Two recent referrals, the Scarborough Waterslide Park (Referral No. 20) and the Class Environmental Assessment for Fishery Reclamation (Referral No. 21), involved undertakings with both public and private sector participation. Since the Act does not apply to private sector projects unless designated by the Minister, the status of these hybrid undertakings is often unclear. In order to avoid future confusion among proponents and members of the public, some clarification is required on the applicability of the Act to undertakings with combined public and private sector involvement.



**Release of Committee Reports** Currently, the Committee's reports to the Minister on designation or exemption requests are not released to the public until the Minister has made a decision to exempt or designate. In practice, this can mean a lengthy delay following the submission of the report to the Minister during which time neither the proponent nor other interested parties have access to the Committee's comments and recommendations. For example, in the case of the Magpie River project, approximately five months elapsed between submission of the Committee's report and the decision not to designate the project. Access to the Committee's report might have assisted discussions during this period among the Ministry, the proponent and other affected parties about the appropriateness of designation under the Act, and encouraged a faster, more open decision making process.

The Committee recognizes the need to allow a reasonable period of time for the Minister to review the Committee's report prior to its release. However a set limit on this period, after which the Committee's reports may be released to the public, should be established.

**Exemption Orders** If the Minister decides to grant a request by a public sector proponent for an exemption from the Environmental Assessment Act, that permission is set out in an exemption order. This order usually contains a number of conditions with which the proponent must comply. If it fails to comply with any of these conditions, the exemption is no longer valid, and the undertaking becomes subject to the full environmental assessment process.

The Minister of the Environment granted 35 exemption orders during the 1986/87 reporting year, almost all of which contain conditions aimed at ensuring that environmental concerns are addressed in the planning process. In three referrals, the Committee reviewed and commented upon draft exemption orders. In two other referrals (23 & 24), the Committee was involved in the drafting of detailed conditions.

For some undertakings, exemption orders with detailed conditions can be an effective means of ensuring sound environmental planning. However, in the two most recent referrals, concerns have been raised regarding the extensive use of such orders. Some public submissions on the Hamilton Waterfront project expressed the view that the case was an example of the tendency of public sector proponents to seek exemptions as a matter of course, even in the case of

major projects with potentially significant environmental impacts. In both the Hamilton Waterfront case and the Committee's review of the proposed policy to deal with exemption requests for municipal landfill expansions, submitters argued that the increasing use of exemption orders diverts the attention of proponents from the usefulness of the full environmental assessment process and that proponents should instead redirect time and energy currently expended on exemption requests toward meeting the requirements of the Act.

In the Committee's view caution must be exercised in the use of exemption orders. The Committee is concerned that in the Hamilton Waterfront case the City believed it had been encouraged by the Ministry to request an exemption as an alternative to full environmental assessment. The Ministry should make it clear to proponents that for projects with potentially significant environmental effects, an exemption is not an alternative means of obtaining approval under the Act.

Where exemption orders are granted, however, care must be taken to ensure that conditions of exemption are clearly and precisely set out in the order and are understood and complied with by the proponent. The Committee has played and can continue to play a role in proposing and reviewing draft conditions. After an exemption order is granted, ongoing monitoring is required to ensure compliance with these conditions. The Committee is pleased to see that the Ministry is developing a policy and procedures to deal with monitoring of, and compliance with, exemption conditions.

### Environmental Assessment and Other Approvals

**Statutory Approvals** In almost all referrals involving exemption or designation requests, the Committee assesses the adequacy of existing approvals as a means of addressing the environmental impacts of a proposed undertaking. For example, in the case of the Magpie River project, the proponent submitted that specific approvals required under other legislation, such as the Ontario Water Resources Act, the Federal Fisheries Act, and the Lakes and Rivers Improvement Act, were adequate to address concerns about the impacts of the project on the natural environment. The Committee concluded that these approvals were not adequate since they did not provide an assessment of socio-economic impacts, or any formal opportunity for public comment and if necessary a public hearing.

In the Hamilton Waterfront case, the Committee noted that while some biophysical concerns arising from the project would be considered in certain specific approvals required by various statutes, including the Environmental Protection Act, the Ontario Water Resources Act and the Planning Act, these approvals deal with specific, technical issues. The Committee concluded that, taken together, these statutory requirements would not ensure adequate evaluation of alternatives or a sufficiently comprehensive overall review.

In both of these cases the proponents were concerned that meeting environmental assessment requirements would waste time and resources and duplicate work done to meet approval requirements under other legislation. These concerns point to the need to improve the efficiency of the approvals process, and to integrate more effectively Environmental Assessment Act requirements with those of other statutes. This could involve changes not only to the Environmental Assessment Act but also to other key pieces of legislation such as the Environmental Protection Act and the Planning Act.

**Joint Boards** Some referrals received by the Committee involve issues which raise the possibility of public hearings before both the Environmental Assessment Board and another tribunal. The Consolidated Hearings Act provides a means of addressing these overlapping jurisdictions and avoiding duplication of hearings. However, the Act applies only to hearings held under the statutes which are listed in the Act's schedule.

In a referral dealt with in the previous reporting year (Consumers Gas LNG-Referral #17), the Committee assessed the need for the full environmental assessment of a private sector undertaking which required a hearing before the Ontario Energy Board (OEB). The Committee noted that, while environmental assessment would be appropriate in this case, there is no provision in the Consolidated Hearings Act for a joint Environmental Assessment - OEB hearing. Thus, in this case, a special Order-in-Council was required so that the OEB could consider environmental assessment requirements and concerns.

Since the Consolidated Hearings Act is usually applied to public sector projects which are subject to the Environmental Assessment Act, it does not provide for consolidation with hearing boards, such as the OEB, which deal largely with private sector approvals. It would be useful to amend the schedule of the Consolidated Hearings Act to allow for joint hearings with the OEB, as well as with other boards that make decisions on private sector projects with environmental impacts.

## General Policy Issues

**Environmental Assessment and Northern Development** One central issue raised by the Magpie River project, and a number of other recent designation and exemption requests is the impact of environmental assessment on resource development in northern Ontario. This issue reflects the traditional perception of conflict between environmental protection and economic development. In the Committee's view, environmental protection is a prerequisite for sustainable development and the environmental assessment process should not be viewed as necessarily in conflict with economic programs in Ontario's north. However, there are a number of recurring and inter-related economic, planning and environmental issues unique to this region. Development of a separate policy to deal with the special problems of environmental assessment in northern Ontario would seem appropriate.

**Intervenor Funding** In its report on Interim Expansion of Municipal Waste Landfills, the Committee noted the importance of adequate funding to ensure meaningful public participation in the environmental assessment process. Such funding would assist this process by ensuring that the valid environmental concerns identified by members of the public are brought to the attention of government decision makers. The Committee looks forward to completion of a policy which outlines the requirements for obtaining intervenor funding.



## OUTLOOK

The Environmental Assessment Act provides a rational planning process for projects with potentially significant effects on the environment. However, there is a widespread view, especially among proponents, that this process including the process of granting exemptions and designations is cumbersome, time-consuming, expensive, and often unwarranted. This view is unfortunate. Although the EA Act is not perfect, many of the problems associated with its application appear to be due to a lack of appreciation of and commitment to the process and its wise use from an early stage of planning by proponents, government ministries and the public.

The Committee welcomes the government's decision to initiate a review of the Environmental Assessment Act and other related statutes. Such a review provides an opportunity to address the concerns of proponents, the public and government ministries and, in this way, achieve more effectively the purpose of the Act:

the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment.

As Ontario's environmental assessment process proceeds into its second decade, opportunities exist to make that process more practical and useful both for private and public sector proponents and for members of the public, while at the same time meeting the challenge of planning for a safer and cleaner environment.









## PERSPECTIVES

La Loi sur les évaluations environnementales permet de planifier d'une manière rationnelle les projets qui risquent d'avoir d'importants effets sur l'environnement. Toutefois, de nombreuses personnes, particulièrement les promoteurs, pensent que ce processus, et notamment la façon dont sont accordées les exemptions et les désignations, est pesant, qu'il prend du temps, coûte cher et est rarement justifié. Cette opinion est regrettable. Bien que la Loi sur les évaluations environnementales ne soit pas parfaite, un grand nombre des problèmes soulevés par son application semblent provenir d'une connaissance insuffisante de ce processus, d'un manque d'engagement à son égard, et de l'usage peu judicieux qui en est fait par les promoteurs, les ministères et le public dès la phase de planification.

Le Comité se réjouit de voir que le gouvernement a décidé d'entreprendre l'examen de la Loi sur les évaluations environnementales et d'autres textes législatifs connexes. Une telle étude est une bonne occasion de répondre aux préoccupations des promoteurs, du public et des ministères concernés et elle permet ainsi d'atteindre beaucoup mieux l'objectif défini dans la Loi :

"améliorer la situation des résidents de l'Ontario ou d'une partie de la province en assurant la protection, la conservation et une gestion prudente de l'environnement en Ontario".

Alors que l'évaluation environnementale en Ontario entre dans sa deuxième décennie, il devient possible de rendre ce processus plus pratique et plus utile, tant pour les promoteurs des secteurs public et privé que pour le public. Il s'agit de se surpasser pour planifier un environnement plus salubre et plus propre.

environnementale et la CEO. On avait ainsi été forcé dans ce cas d'obtenir un décret pour que la CEO puisse tenir compte à la fois des impératifs liés à l'évaluation environnementale et des inquiétudes manifestées à ce sujet.

Comme on applique généralement la loi de 1981 sur la jonction des enquêtes aux projets du secteur public qui sont soumis aux dispositions de la loi sur les évaluations environnementales, la loi de 1981 ne prévoit pas de regroupements avec des commissions d'enquête, telles que la CEO, qui s'occupent en grande partie des autorisations destinées au secteur privé. Il serait utile de modifier l'Annexe de la loi de 1981 sur la jonction des enquêtes de façon à permettre la tenue d'audiences communes à la CEO et à d'autres commissions dont les décisions s'appliquent à des projets du secteur privé qui ont des effets sur l'environnement.

## Problèmes de politique générale

### Évaluation environnementale et développement du Nord - A

la suite d'un certain nombre de demandes de désignation et d'exemption est apparu un problème fondamental qui a aussi été soulevé par le projet de la rivière Magpie; il s'agit de l'incidence de l'évaluation environnementale sur la mise en valeur des richesses du nord de l'Ontario. Elle est révélatrice du conflit traditionnel que l'on constate entre protection de l'environnement et mise en valeur de l'économie. Le Comité estime que la protection de l'environnement est une condition préalable à un développement soutenu. Selon lui, on ne devrait pas considérer qu'il y a nécessairement conflit entre ce processus et les programmes visant au développement économique du nord de l'Ontario. Il existe, toutefois, un certain nombre de problèmes interdépendants, qui reviennent périodiquement, touchent à l'économie, à la planification et à l'environnement et qui sont uniques à cette région. Il serait souhaitable, semble-t-il, d'élaborer, dans ce cas particulier, une politique distincte, afin de tenir compte des problèmes précis soulevés par l'évaluation environnementale dans le nord de l'Ontario.

### Financement des intervenants - Dans son rapport sur la prorogation de l'expansion provisoire des décharges municipales, le Comité a souligné l'importance d'un financement convenable qui garantirait une participation réelle du public au processus d'évaluation environnementale. Ce financement faciliterait l'évaluation, en ce sens qu'on serait sûr d'attirer l'attention des décideurs du gouvernement sur les problèmes authentiques d'environnement que le public aurait relevés. Le Comité attend avec impatience qu'on ait mis au point une politique précisant les conditions qui seront nécessaires pour obtenir le financement des intervenants.

avoir sur l'environnement. Le Comité avait jugé que ces autorisations ne convenaient pas, étant donné qu'elles n'avaient pas exigé une évaluation des effets socio-économiques ni donné au public la possibilité de s'exprimer d'une manière officielle ou de tenir au besoin des audiences publiques.

Dans le cas de l'aménagement du rivage d'Hamilton, le Comité avait estimé que, même si elles tenaient compte de plusieurs problèmes biophysiques soulevés par ce projet, les autorisations exigées dans certains cas précis par différentes lois, notamment la Loi sur la protection de l'environnement, la Loi sur les ressources en eau de l'Ontario et la Loi de 1983 sur l'aménagement du territoire, portaient sur des questions techniques bien précises. Le Comité avait conclu que, globalement, les conditions imposées par ces lois ne garantissaient pas qu'il y aurait une évaluation correcte des différentes possibilités offertes ni une étude d'ensemble suffisante.

Dans ces deux cas, les promoteurs craignaient de perdre du temps et de l'argent en se conformant aux impératifs de l'évaluation environnementale, et pensaient que cela ferait double emploi avec les mesures déjà prises pour répondre aux conditions imposées par d'autres lois en vue d'obtenir une autorisation. Ces inquiétudes montrent bien qu'il faut rendre le processus des autorisations plus efficace et unifier les impératifs de la Loi sur les évaluations environnementales et ceux des autres lois. Cette mesure pourrait signifier des changements non seulement à la Loi sur les évaluations environnementales mais également à d'autres textes législatifs essentiels tels que la Loi sur la protection de l'environnement et la Loi de 1983 sur l'aménagement du territoire.

**Commissions mixtes** - Certains projets présentés au Comité soulevaient des questions qui pourraient faire l'objet d'audiences publiques devant la Commission des évaluations environnementales et devant un autre tribunal. La Loi de 1981 sur la jonction des enquêtes permet de régler les problèmes posés par les juridictions qui se chevauchent et d'éviter la répétition des audiences. Cependant, cette Loi ne s'applique qu'aux audiences prescrites aux termes des lois mentionnées dans l'annexe à la Loi.

À l'occasion d'une question étudiée au cours de l'année visée par le rapport précédent (Usine de gaz naturel liquéfié de Consumers Gas - Question n° 17), le Comité avait envisagé la nécessité de procéder à l'évaluation environnementale complète relativement à un projet du secteur privé qui exigeait la tenue d'une audience devant la Commission de l'énergie de l'Ontario (CEO). Le Comité avait noté que, bien qu'on soit obligé d'effectuer une évaluation environnementale dans ce cas précis, la Loi de 1981 sur la jonction des enquêtes ne prévoyait pas la tenue d'une audience commune à la Commission d'évaluation



rivage d'Hamilton, le public a fait valoir dans certains de ses commentaires que c'était là un exemple de la tendance des promoteurs du secteur public qui cherchent automatiquement à obtenir des exemptions, même lorsqu'il s'agit de projets de grande envergure pouvant avoir des répercussions considérables sur l'environnement. Dans le cas du projet d'aménagement du rivage d'Hamilton comme dans l'étude effectuée par le Comité sur le projet de politique concernant les demandes d'exemption pour l'agrandissement des décharges municipales, les intervenants ont indiqué que l'usage croissant des ordres d'exemption empêche les promoteurs de se rendre compte de l'utilité du processus des évaluations environnementales. Au lieu de se consacrer aux demandes d'exemption, ces promoteurs devraient plutôt s'efforcer de se conformer aux dispositions de la Loi.

Le Comité estime qu'il faut se montrer très prudent avec les ordres d'exemption. Il s'inquiète de voir que, dans le cas de l'aménagement du rivage d'Hamilton, la ville a cru que le Ministère l'encourageait à demander une exemption plutôt que de procéder à une évaluation environnementale complète. Le Ministère devrait expliquer clairement aux promoteurs que si leurs projets risquent d'importants effets sur l'environnement, une exemption ne saurait remplacer l'autorisation que prévoit la Loi. Toutefois, lorsque les ordres d'exemption sont accordés, il faut veiller à ce que les conditions de l'exemption y soient définies d'une façon claire et précise et s'assurer que le promoteur les a bien comprises et en respecte les dispositions. Le Comité a joué un rôle certain lorsqu'il a proposé puis examiné les conditions préliminaires et il peut continuer d'en être ainsi. Une fois qu'un ordre d'exemption a été accordé, il est indispensable de vérifier le déroulement des opérations afin de s'assurer que les conditions imposées sont bien observées. Le Comité se réjouit de voir que le Ministère est en train de mettre en place une politique et des modalités qui permettront à la fois d'exercer un tel contrôle et de veiller au respect des conditions de l'exemption.

## Évaluation environnementale et autres autorisations

**Autorisations prévues par la Loi** - Dans presque toutes les questions pour lesquelles il y a demande d'exemption ou de désignation, le Comité examine les autorisations existantes pour juger des effets qu'un projet peut avoir sur l'environnement. Ainsi, dans le cas du projet de la rivière Magpie, le promoteur avait soutenu que les autorisations requises par d'autres lois, comme la Loi sur les ressources en eau de l'Ontario, la Loi sur les pêcheries (fédérale) et la Loi sur l'aménagement des lacs et des rivières étaient suffisantes, car elles répondaient bien aux préoccupations suscitées par les effets que le projet pouvait



indispensable de savoir avec certitude si la Loi doit s'appliquer aux projets entrepris en commun par le secteur public et le secteur privé.

**Publication des rapports du Comité** - Actuellement, les rapports du Comité qui sont remis au ministre et qui concernent les demandes de désignation ou d'exemption ne sont pas divulgués au public tant que le ministre n'a pas pris de décision. En pratique, cela peut se traduire par une longue attente après que le rapport a été remis au ministre. Pendant ce temps, ni le promoteur ni les autres personnes qui s'intéressent au projet ne peuvent prendre connaissance des remarques et recommandations que le Comité a présentées. Ainsi, dans le cas du projet de la rivière Magpie, cinq mois environ se sont écoulés entre le moment où le Comité a présenté son rapport et celui où on a décidé de ne pas soumettre le projet aux dispositions de la Loi. Si on avait pu consulter le rapport du Comité, cela aurait peut-être facilité les pourparlers entre le Ministère, le promoteur et les tiers intéressés quant à savoir si la Loi devait s'appliquer au projet. En outre, cela aurait pu rendre la prise de décision plus rapide et plus ouverte.

Le Comité se rend bien compte que le ministre doit avoir suffisamment de temps pour étudier son rapport avant de le publier. Il faudrait, cependant, fixer une limite après laquelle les rapports du Comité pourraient être rendus publics.

**Les ordres d'exemption** - Si le ministre décide d'accéder à la demande d'un promoteur du secteur public qui désire ne pas être soumis aux dispositions de la Loi sur les évaluations environnementales, il accorde cette permission dans un ordre d'exemption. Cet ordre contient également un certain nombre de conditions que le promoteur doit respecter. S'il ne le fait pas, l'exemption n'est plus valable et le projet doit alors être soumis au processus complet d'évaluation environnementale.

Le ministre de l'Environnement a accordé 35 ordres d'exemption au cours de l'année 1986-1987 visée par le rapport. Presque tous contenaient des conditions destinées à garantir que la planification portait bien sur des questions relevant de l'environnement. Dans le cas de trois questions, le Comité avait examiné des ordres d'exemption préliminaires et émis des remarques à leur sujet. Dans deux autres cas (questions n° 23 et 24), le Comité avait participé à la rédaction de plusieurs conditions détaillées.

Pour d'autres projets, les ordres d'exemption comportant des conditions détaillées peuvent constituer un bon moyen de garantir que la planification de l'environnement a été correctement effectuée. Toutefois, à l'occasion des deux questions les plus récentes, on s'est inquiété de l'ampleur prise par le recours à ces ordres d'exemption. A l'occasion du projet d'aménagement du

Une fois que le Comité a donné son avis, le temps mis à prendre la décision finale de procéder à une exemption ou à une désignation peut également être une source importante de retards. En ce qui concerne les huit dernières demandes d'exemption ou de désignation examinées par le Comité, il a fallu attendre plusieurs semaines et jusqu'à huit mois avant qu'une décision ne soit prise après l'étude du Comité.

Un des effets de ces retards a été d'augmenter chez les promoteurs la crainte que le processus d'évaluation environnementale retarde leurs projets et y ajoute des frais. Ces retards peuvent avoir sur les projets du secteur privé des effets négatifs plus sérieux que sur ceux du secteur public, car les promoteurs privés ne sont tenus de se conformer aux dispositions de la Loi que si l'on décide de procéder à une désignation, et à partir de ce moment-là seulement. Si cette décision n'intervient pas rapidement, une désignation forcera toujours les promoteurs privés à faire marche arrière car ils devront respecter les conditions imposées à la suite de l'évaluation environnementale. Dans les deux questions portant sur des projets présentés l'année dernière par le secteur privé, la planification avait atteint un stade avancé aussi bien lors du renvoi au Comité qu'au moment où la décision avait été prise. On avait inutilement demandé au Comité et au ministre d'étudier différents arguments concernant les aspects négatifs de ces retours en arrière.

Si la décision de procéder à une désignation intervenait rapidement au cours de la phase de planification, ces problèmes seraient minimes. Si on prenait à temps la décision d'appliquer ou de ne pas appliquer la Loi, les promoteurs pourraient se faire une meilleure idée du genre de planification qu'on attend d'eux. Le public en tirerait également profit, puisqu'il aurait ainsi l'occasion de participer dès le début au processus de planification.

L'élaboration d'un certain nombre de critères permettrait de répondre beaucoup plus vite aux demandes de désignation provenant du secteur privé. Ces critères devraient préciser sur quelle base les décisions sont prises ainsi que le genre de projets auxquels la Loi devrait s'appliquer.

**Projets entrepris en commun par les secteurs privé et public** – Deux projets récents concernant le parc d'attractions aquatiques de Scarborough (question n° 20) et l'évaluation environnementale de portée générale pour la mise en valeur des pêcheries (question n° 21) faisaient appel à la participation commune des secteurs privé et public. Etant donné que la Loi ne s'applique pas aux projets du secteur privé sauf s'ils sont expressément désignés par le ministre, le statut de ces entreprises hybrides est souvent incertain. Afin d'éviter la confusion chez les promoteurs et les particuliers, il est

• après avoir soumis une demande et avant le renvoi de la question au Comité;

• après la présentation des conseils du Comité et avant la décision du ministre.

Dans le cas du projet concernant l'aménagement du rivage d'Hamilton, des retards importants s'étaient produits au cours des deux premières étapes indiquées ci-dessus. La ville avait attendu neuf mois pour présenter une demande d'exemption après avoir décidé de lancer le projet et le renvoi de la question au Comité n'avait eu lieu que six mois après la présentation de la demande. Pendant tout ce temps, la ville avait décidé d'ajourner certaines études qui seraient exigées en vertu d'une évaluation environnementale complète. Lorsque la demande d'exemption fut plus tard rejetée, la planification du projet était déjà fort avancée et le promoteur se trouva alors contraint de faire marche arrière afin de respecter plusieurs conditions imposées par l'évaluation environnementale.

Le Ministère devrait fortement conseiller aux promoteurs du secteur public de soumettre leur demande d'exemption le plus rapidement possible après qu'a été prise la décision de lancer le projet. Ils devraient également respecter le processus d'évaluation environnementale tant qu'une décision n'aura pas été prise au sujet de la demande d'exemption. En outre, le promoteur devrait bien comprendre que les retards qu'il aura occasionnés s'il ne suit pas ces conseils ne pourront être invoqués plus tard pour justifier une exemption.

Une fois qu'une demande a été soumise, le Ministère a besoin d'un certain temps pour se renseigner sur les avantages et les inconvénients inhérents à la demande et décider s'il serait utile de demander conseil au Comité. Récemment, cependant, pour deux demandes portant, l'une sur l'aménagement du rivage d'Hamilton, et l'autre sur le projet de la rivière Magpie, la décision de soumettre ces dossiers au Comité a demandé respectivement six mois et sept mois. Dans ces deux cas, on aurait pu prendre une décision beaucoup plus rapidement car ce ne sont pas les quelques renseignements nouveaux obtenus après la présentation de la demande qui pouvaient permettre de décider s'il fallait ou non soumettre la demande au Comité.

L'étude d'une demande par le Comité peut présenter beaucoup d'intérêt à condition que ce dernier en soit saisi au plus tôt. Comme il exerce un contrôle sur les demandes d'exemption et de désignation, il peut permettre d'éviter des retards inutiles en contribuant à signaler les cas pour lesquels une étude serait nécessaire.



également la valeur du processus d'évaluation environnementale pour les grands projets du secteur privé dont les effets sur l'environnement pourraient être considérables.

À propos de récentes questions concernant des promoteurs du secteur privé, le Comité a relevé un certain nombre de problèmes liés aux demandes de désignation. Certains de ces problèmes proviennent de ce que l'on n'est pas sûr de savoir quand la Loi devrait s'appliquer. Dans des cas comme celui du projet de la rivière Magpie, où la désignation qui semblait appropriée est refusée, les partisans de la désignation sont déçus de voir que les critères retenus pour justifier la décision ne sont pas révélés au public. Dans les cas où la désignation ne convient pas, les différentes parties perdent leur temps et dépendent de l'énergie à s'occuper de la demande.

Les particuliers qui s'intéressent à un projet pourraient mieux juger s'ils doivent consacrer du temps et de l'énergie à une demande, si on pouvait les conseiller sur le genre de sujets auxquels la désignation convient le mieux. Qui plus est, cette façon de procéder serait d'un grand secours aux promoteurs si, dès le début, on leur indiquait qu'une évaluation environnementale était souhaitable, aux termes de la Loi. Ainsi, on devrait concevoir des politiques et des directives qui pourraient aider les participants à savoir quand la Loi doit s'appliquer aux projets du secteur privé.

Un second problème est apparu lorsqu'on a reçu, en 1986 et 1987, deux demandes visant des projets concernant le secteur privé. Leurs promoteurs s'étaient rendu compte que les délais et les coûts d'une évaluation environnementale complète menaçaient la réalisation même des entreprises. Ce sont ces considérations, et non les inquiétudes au sujet de l'environnement, qui se sont révélées décisives lorsqu'on a décidé de ne pas procéder à la désignation, conformément à la Loi, de ces projets du secteur privé. Il est important que l'on puisse répondre à ces préoccupations en veillant à ce qu'une évaluation environnementale correcte puisse avoir lieu sans entraîner de retards, aussi bien pour les projets du secteur privé que pour ceux du secteur public. Une telle mesure devrait faire partie du Projet d'amélioration du programme d'évaluation environnementale (PAPEE) que le Ministère a annoncé récemment.

### Moment de la prise de décisions - L'année dernière, à

propos de plusieurs questions ayant donné lieu à des demandes d'exemption et de désignation, le Comité avait remarqué que la décision d'appliquer ou non la Loi à un projet particulier n'intervenait qu'après de longs retards. Ces retards peuvent survenir à différents moments :

· avant de soumettre une demande de désignation ou d'exemption;



de savoir si la Loi sur les évaluations environnementales devait s'appliquer à certaines activités. Au cours de l'année passée, le Comité a également fourni au ministre des conseils sur d'autres politiques et décisions ayant trait aux évaluations environnementales et il a continué de surveiller le fonctionnement du processus des exemptions et des désignations.

L'expérience acquise l'année dernière a permis de réaffirmer que les réunions publiques organisées par le Comité avaient leur utilité. Elles permettent non seulement au Comité d'écouter ce que le promoteur et le public ont à dire sur la question des exemptions et des désignations, mais elles donnent également au promoteur l'occasion de présenter son projet au public et d'entendre les commentaires qu'il peut susciter. En fait, les réunions du Comité peuvent donner au public l'occasion d'engager pour la première fois un dialogue sur une proposition donnée. L'année dernière, par exemple, le Comité a organisé le premier forum permettant un échange de vues sérieux sur différents projets ayant trait à la construction d'un parc d'attractions aquatiques (question no 20), et à la création d'une chasse au chevreuil dans une réserve de chasse de la Couronne (question no 23).

Grâce à l'étude séparée de chaque demande d'exemption et de désignation, à la surveillance exercée au cours du processus d'exemption et de désignation et, d'une manière générale, de l'évaluation environnementale, le Comité a relevé un certain nombre de points susceptibles d'améliorer l'évaluation environnementale en Ontario. Ces points sont précisés ci-dessous.

## La décision d'accorder des exemptions et des désignations

La désignation dans le secteur privé - La Loi sur les évaluations environnementales ne s'applique pas aux projets de grande importance du secteur privé sauf si ceux-ci sont expressément désignés dans des règlements. Par ailleurs, on a rarement demandé aux promoteurs du secteur privé de respecter les dispositions de la Loi. Deux faits récents sembleraient indiquer que cette situation pourrait changer. En premier lieu, comme on l'a vu précédemment dans ce rapport, le nombre des demandes de désignation présentées par le public aux termes de cette Loi a considérablement augmenté au cours des trois dernières années. En second lieu, le gouvernement a pour la première fois étendu, en mars 1987, l'application de la Loi à un type bien précis de projet du secteur privé, à savoir les installations de récupération d'énergie. L'augmentation des demandes laisse à penser qu'un nombre croissant de personnes se rendent compte de l'objectif visé par le processus d'évaluation environnementale et des avantages qu'on peut en retirer. En procédant à la désignation des installations de récupération d'énergie, le gouvernement reconnaît

Tableau 2

Demandes de désignation - 1er avril 1984-31 mars 1987

Année	Secteur privé	Secteur public	Total
1984-1985	2	3	5
1985-1986	9	6	15
1986-1987	15	7	22

Le tableau révèle une augmentation sensible du nombre de demandes de désignation, surtout pour le secteur privé. Parmi les quinze projets du secteur privé ayant fait l'objet de demandes de désignation durant la période visée, mentionnons le réaménagement des terrains ferroviaires à Toronto, la construction d'un port de plaisance, l'aménagement d'une voie d'accès pour une exploitation minière, des ouvrages d'excavation d'argile, une raffinerie pour l'huile usagée et quatre installations de traitement et d'élimination des déchets.

Deux des demandes de désignation présentées au cours de l'année dernière à l'égard de projets du secteur privé

concernaient des incinérateurs servant à récupérer l'énergie des déchets, l'un à Mississauga, et l'autre, à Toronto. Le 13 mars 1987, le ministre de l'Environnement a annoncé que toutes les installations de récupération d'énergie traitant plus de 100 tonnes de déchets par jour seront soumises au régime de la Loi sur

les évaluations environnementales, et il a communiqué un énoncé de politique sur les modalités d'application de la Loi à ces

installations privées. C'était la première fois qu'une catégorie d'activités du secteur privé tombait sous le coup de la Loi. Depuis la révélation de cet énoncé de politique, le projet de récupération d'énergie à Mississauga a été désigné par règlement. Un autre règlement visant à la désignation du projet

d'incinérateur à Toronto est en voie de finalisation au Ministère.

Pour de plus amples renseignements sur les demandes d'exemption, de désignation et de changement de catégorie, s'adresser au Comité.

NOTES RÉCAPITULATIVES : PROBLÈMES ET PERSPECTIVES

Le Comité consultatif des évaluations environnementales a continué de jouer le rôle pour lequel il avait été créé à l'origine. Ce rôle consistait à permettre aux organismes indépendants et publics de s'exprimer sur la question essentielle

l'évaluation environnementale de portée générale pour les projets municipaux de traitement de l'eau, entrée en vigueur le 9 avril 1987. Trois demandes provenaient de municipalités souhaitant agrandir provisoirement des décharges contrôlées; deux de ces demandes ont été accordées et la troisième reste en suspens. A l'avenir, les demandes de ce genre seront éventuellement sujettes à la politique examinée par le Comité dans le cas de la question n° 25 et qui est en voie de finalisation au Ministère.

Le ministère des Services gouvernementaux a présenté sept demandes d'exemption, dont cinq s'appliquaient à la construction d'immeubles devant abriter les bureaux d'autres ministères du gouvernement. Cinq autres demandes concernaient des installations hydro-électriques, dont trois ont été soumises par Ontario Hydro et deux par des commissions hydro-électriques locales à l'égard de postes de transformation. Le ministère des Richesses naturelles a demandé des exemptions pour trois projets : l'aménagement d'une route pour l'exploitation forestière, des programmes spéciaux de l'emploi (prolongation d'une exemption préalablement accordée) et la mise en oeuvre de programmes de gestion dans les parcs provinciaux (prolongation d'une exemption préalablement accordée). Le ministère de l'Environnement a soumis deux demandes : l'une visait le traitement provisoire de déchets contaminés dans une décharge privée, et l'autre, l'élimination de la houille de goudron de la rivière Welland.

**Demandes de désignation** - Le tableau 2 fait état des demandes de désignation présentées au ministre durant chacune des trois dernières années à l'égard de projets des secteurs privé et public. Les demandes applicables au secteur public visent des entreprises publiques qui jusqu'alors étaient soustraites aux dispositions de la Loi sur les évaluations environnementales.

Tableau 1

Projets faisant l'objet d'une demande d'exemption, de désignation ou de changement de catégorie - 1er avril 1986-31 mars 1987

Exemption		Changement de catégorie		Désignation
Total des demandes				
Etat des demandes (30 juin 1987)				
Accordées	25			2
Refusées	12	1		5
En suspens	3			7
Autres*	1			8
Question renvoyée au CCEE		1	0	1

\* A savoir les projets annulés, les demandes révoquées et les projets relevant du gouvernement fédéral.

Deux des 64 demandes ont été renvoyées au Comité durant l'année visée. Quant aux six autres questions traitées par le Comité pendant l'année, quatre d'entre elles portaient sur des demandes formulées durant l'année précédente, et les deux autres, sur des dossiers qui n'étaient pas motivés par une demande individuelle.

**Demands d'exemption** - Vingt-et-une des quarante-et-une demandes d'exemption présentées au ministre durant la période visée concernaient des projets entrepris par des municipalités locales ou régionales. Douze de ces demandes concernaient des projets municipaux d'assainissement des eaux d'égout ou d'épuration de l'eau; du nombre, neuf demandes ont été rejetées parce que les projets tombent désormais sous le coup de



Le 18 février 1987, le ministre a demandé au Comité d'effectuer l'examen ouvert d'une demande d'exemption datée du 30 juillet 1986, présentée par la ville d'Hamilton à l'égard d'un projet d'aménagement du rivage. Ce projet, dont le coût estimatif se chiffre à 40 millions de dollars, suppose la modification du modèle actuel du terrain ainsi que l'aménagement d'un important centre de loisir le long de la partie centrale du rivage d'Hamilton. Il comporte également une stratégie visant à améliorer les liaisons entre la ville et le rivage.

Le Comité a tenu une audience publique le 24 mars 1987 à Hamilton. Des habitants de la ville et des groupes environnementaux ont exprimé leurs inquiétudes quant aux conséquences éventuelles de l'aménagement prévu sur les lieux d'une ancienne décharge industrielle, quant au dragage et à l'élimination des matériaux dragués, à la création d'îles artificielles et à l'intensification de la circulation et du bruit dans le secteur.

Le Comité a présenté son rapport au ministre le 1<sup>er</sup> avril 1984. Il recommandait que le projet ne soit pas soustrait aux dispositions de la Loi sur les évaluations environnementales. De l'avis du Comité, le projet pouvait avoir une incidence considérable sur une région dont l'environnement est d'une importance internationale. Malgré l'instauration d'un processus de planification ouvert au public, initiative fort louable, de nombreuses questions restent posées sur le plan de l'environnement, d'autant plus que les autres autorisations prévues par la Loi pouvaient être accordées sans que le public ait l'occasion d'examiner ces incidences et d'éventuelles mesures palliatives. Enfin, la réalisation du projet n'était pas pressante.

Le 9 juin 1987, le ministre a informé les autorités de la ville que l'exemption ne serait pas accordée.

## RECENSION DES DEMANDES

Outre qu'il fournit au ministre de l'Environnement des conseils au sujet de demandes d'exemption, de désignation ou de changement de catégorie, le Comité recense toutes ces demandes. Durant la période visée en 1986-1987, le ministre a reçu 41 demandes d'exemption, 22 demandes de désignation et une demande de changement de catégorie. Le tableau 1 figurant ci-après décrit l'état de ces demandes au 30 juin 1987.

Le 13 novembre 1986, le ministre a demandé au Comité de le conseiller sur un projet de politique touchant aux demandes d'exemption formulées par les municipalités qui désirent agrandir leur décharge. Le Comité chargé d'effectuer un examen restreint a passé en revue des propositions venant d'une multitude de parties intéressées et il s'est penché sur plusieurs demandes d'exemption qui tomberaient sous le coup de la politique proposée.

Cette politique s'appliquerait uniquement aux municipalités qui ont officiellement entamé un processus d'évaluation environnementale pour définir leurs besoins à long terme en gestion des déchets, mais qui se voient obligées, en attendant la mise en oeuvre d'un plan à long terme, d'agrandir les décharges existantes pour répondre aux besoins immédiats.

Dans le rapport qu'il a soumis au ministre le 22 janvier 1987, le Comité recommandait le renforcement du projet de politique. Le Comité a notamment recommandé 19 critères précis à respecter avant qu'une exemption ne puisse être accordée. Parmi les critères, notons :

o l'agrandissement proposé doit viser une période de trois ans au maximum;

o la municipalité doit prouver que l'agrandissement constitue la seule solution praticable;

o la municipalité doit avoir entrepris un processus de planification publique valable à l'égard de l'agrandissement proposé, processus comprenant une réunion publique;

o une audience publique doit être tenue conformément aux dispositions de la Loi sur la protection de l'environnement.

Le Comité a également recommandé que, dans le cas où une demande d'exemption ne répondrait pas manifestement à tous les critères, cette demande fasse l'objet d'un examen individuel approfondi, et que le Comité participe à cet examen de la question. Dans le rapport se trouvaient aussi énoncées les conditions précises devant figurer dans un modèle d'ordonnance d'exemption en fonction duquel seront rédigées les ordonnances d'exemption individuelles.

Le ministre a convenu de consulter le Comité avant d'adopter une politique, des critères d'admissibilité et un modèle d'ordonnance d'exemption définitifs.

ne pas désigner le projet. Les autorisations prévues par la Loi ont été obtenues et les travaux de construction ont commencé.

Chasse au cerfs dans la réserve de chasse de la Couronne de Peterborough - Demande de désignation - Question n° 23

Le 25 septembre 1986, le ministre a demandé au Comité d'entreprendre l'examen ouvert d'une demande de désignation en date du 21 juillet 1986, présentée par les habitants de la région à l'égard d'une chasse aux cerfs de deux semaines, devant commencer le 3 novembre 1986, dans la réserve de chasse de la Couronne de Peterborough. Le promoteur de ce projet était le ministère des Richesses naturelles.

Le Comité a tenu une audience publique le 17 octobre 1986, à Apsley, tout près de la réserve. Les partisans de la chasse ont affirmé que la surpopulation des cerfs imposait de lourdes charges aux réserves de nourriture et entraînait la famine et la maladie. Les opposants ont soutenu que la chasse n'était pas nécessaire, que les données du ministère des Richesses naturelles sur la population des cerfs étaient peu fiables et que la réserve perdrait son caractère exceptionnel de champ d'observation de la faune si la chasse était autorisée.

Le 27 octobre 1986, le Comité a présenté son rapport au ministre. Il a recommandé que la saison de chasse 1986 ne soit pas désignée et qu'elle puisse donc se dérouler comme prévu, à condition que le ministère des Richesses naturelles s'engage à mener à bien un processus de planification ouvert au public relativement aux activités de gestion de la faune dans la réserve avant qu'on ne permette d'autres chasses. Le Comité a recommandé un certain nombre de critères précis applicables au processus de planification, critères devant être énoncés dans une ordonnance d'exemption distincte pour la gestion de la faune dans la réserve; il a également recommandé qu'on profite de la saison de chasse 1986 pour réunir des données propres à favoriser ce processus. Le Comité a également recommandé que, avant de lancer ce processus de planification, le Cabinet précise la fonction de la réserve de chasse de la Couronne de Peterborough en décidant officiellement si la réserve a pour but de permettre et de promouvoir la chasse aux cerfs, ou de faciliter l'observation de la faune, ou de remplir ces deux fonctions.

Le 30 octobre 1986, le ministre de l'Environnement a révélé que lui-même et le ministre des Richesses naturelles avaient accepté les recommandations du Comité. La saison de chasse 1986 s'est déroulée comme prévu. Le 4 juin 1987, comme suite aux recommandations du Comité, le ministre des Richesses naturelles a présenté une demande d'exemption visant la gestion de la faune. Toutefois, à cette date, le Cabinet n'avait pris aucune mesure pour statuer sur la fonction de la réserve.



ministre a donné son aval à l'évaluation environnementale de portée générale, sous réserve de conditions faisant suite aux recommandations du Comité.

Projet hydroélectrique sur la rivière Magpie - Demande de désignation - Question n° 22

Le 13 août 1986, le ministre a demandé au Comité de conduire l'examen ouvert de la demande de désignation formulée par les habitants de la région et d'autres personnes au sujet du projet hydroélectrique sur la rivière Magpie proposé par la société Great Lakes Power Limited. La première demande de désignation était datée du 17 janvier 1986. Le projet vise à exploiter trois chutes d'eau de la rivière Magpie, dans la région d'Algoma, pour la production d'énergie hydroélectrique. Le coût estimatif du projet s'élevait à 104 millions de dollars. Lorsque le Comité a été saisi de la question, la société Great Lakes Power Limited était près d'achever un ensemble de rapports sur les répercussions environnementales, relevant d'un "processus officieux d'évaluation environnementale" qu'elle avait entrepris en consultation avec le ministère de l'Environnement.

Le Comité a tenu une audience publique les 4 et 5 septembre 1986 à Wawa, prêt des chantiers proposés. D'aucuns ont exprimé leur inquiétude quant aux répercussions biophysiques, économiques et sociales du projet, dont celles imputables à l'inondation des terres et à la régularisation du cours d'eau. Les détracteurs ont soutenu que le projet nuirait aux activités de pêche et de loisir pratiquées dans la rivière Magpie, qu'il aurait pour effet de réduire le débit des trois chutes d'eau et que l'industrie du tourisme dans la région en souffrirait. On a également soutenu que le processus officieux d'évaluation environnementale n'était pas de nature à garantir la tenue d'une consultation et d'un examen publics valables, et qu'il ne prévoyait pas d'audience publique. La société Great Lakes Power Limited a soutenu que l'application de la Loi sur les évaluations environnementales retarderait considérablement la mise en oeuvre du projet, dont la viabilité serait dès lors compromise.

Le Comité a présenté son rapport au ministre le 26 septembre 1986. Il a recommandé que le projet soit désigné en vertu de la Loi sur les évaluations environnementales le plus tôt possible. De l'avis du Comité, la réalisation du projet risquait d'entraîner d'importantes répercussions sur l'environnement, dont certaines n'étaient pas suffisamment prises en compte dans les critères d'autorisation prévus en vertu d'autres lois. En outre, le Comité estimait que le processus d'évaluation officieuse ne pouvait véritablement se substituer au processus d'évaluation complet et que la désignation immédiate du projet n'occasionnerait pas de retard indu. Le 5 mars 1987, le ministre a dévoilé sa décision de



commencent l'été même et il a soutenu qu'une évaluation environnementale retarderait le début des travaux.

Le Comité a présenté son rapport le 27 mai 1986, recommandant la désignation du projet. Le 11 juillet 1986, le ministre a annoncé que la désignation ne serait pas accordée. Suivant cette décision du ministre, une association d'habitants du quartier a déposé une demande en cour divisionnaire afin que soit rendue une décision confirmant que le projet tombe sous le coup de la loi en tant qu'entreprise municipale. Le 27 août 1987, la cour a statué que le projet n'est pas visé par la loi, étant donné qu'il s'agit d'une entreprise privée ne relevant pas de la municipalité. Le 15 septembre 1987, les travaux n'avaient toujours pas commencé.

#### Évaluation environnementale de portée générale pour la réautorisation d'une pêche - Demande de conseil sur l'autorisation d'une entreprise - Question n° 21

Le 15 avril 1986, le ministre a demandé au Comité de procéder à l'examen ouvert de l'évaluation environnementale de portée générale faite par le ministère des Richesses naturelles au sujet de la réautorisation d'une pêche. La réautorisation d'une pêche consiste à éliminer, généralement à l'aide de pesticides, les espèces de poissons jugées "indésirables" dans certains cours d'eau et à y introduire des espèces "désirables" pour la pêche de loisir ou pour établir une écloserie.

Le Comité s'est adressé à quelque 60 organisations et organismes du gouvernement pour obtenir leurs commentaires écrits. Il a reçu 19 réponses. Ces dernières exprimaient l'inquiétude des intéressés concernant l'utilisation du pesticide proposé - le rotenone - et de son incidence en aval de la zone d'épandage, les effets de la transformation d'une communauté aquatique nombreuse en une communauté à espèce unique et l'insuffisance des données actuelles sur les effets à longue durée d'une telle opération.

Le Comité a présenté son rapport au ministre le 16 juin 1986. Il recommandait que soit approuvée l'évaluation environnementale de portée générale, sous réserve de plusieurs conditions précises destinées à garantir la protection de l'environnement et la participation du public au processus.

En avril 1987, le ministre a demandé au Comité de lui fournir des conseils sur les conditions d'autorisation, élaborées en fonction des recommandations formulées dans le rapport du Comité. Ce dernier a soumis un rapport supplémentaire au ministre le 22 avril 1987, dans lequel il recommandait certaines modifications et certains ajouts aux conditions proposées. Le 8 mai 1987, le

proposée le Comité à l'égard des activités de gestion des habitats.

Station municipale d'épuration des eaux d'égout, municipalité de Colchester South, et ouvrages municipaux de purification de l'eau, municipalité de Sydney - Demande d'exemption

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- Question n° 19

Le 27 mars 1986, le ministre a demandé au Comité d'effectuer l'examen interne d'une demande datée du 17 décembre 1985, formulée par la Direction des autorisations environnementales du Ministère pour le compte des municipalités de Colchester South et de Sydney en vue de réconduire l'ordonnance d'exemption MUNI-1, qui venait d'expirer. À l'origine, cette ordonnance d'exemption avait été accordée afin que les dispositions du Règlement 293 de l'Ontario puissent s'appliquer à divers projets municipaux de traitement des eaux d'égout et de purification de l'eau. Parmi toutes les municipalités visées par le premier ordre d'exemption, seules Colchester South et Sydney avaient besoin d'une prolongation de l'exemption.

Le Comité a consulté des représentants des deux municipalités et du Ministère et il a présenté son rapport le 17 avril 1986. Le Comité a recommandé qu'on accepte la demande de prolongation de l'ordonnance d'exemption MUNI-1 à l'égard des deux projets. Toutefois, dans le cas de Sydney, il a recommandé d'accorder l'exemption sous réserve que la municipalité respecte les termes de l'évaluation environnementale de portée générale proposée à l'égard des projets municipaux de traitement des eaux d'égout et de purification de l'eau. Le 2 juin 1986, le ministre a fait connaître sa décision d'accorder ces exemptions sous réserve des conditions énoncées par le Comité dans ses recommandations.

Parc d'attractions aquatiques à Scarborough - Demande de désignation - Question n° 20

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Le 15 avril 1986, le ministre a demandé au Comité d'entreprendre l'examen ouvert d'une demande datée du 24 février 1986, formulée par les habitants et par M<sup>me</sup> Ruth Grier, députée provinciale, en vue de faire désigner la construction et l'exploitation d'un parc d'attractions aquatiques que la société 401 Water Park Inc. projetait d'aménager sur un terrain appartenant à la Ville de Scarborough. Le Comité a reçu des propositions écrites et il a entendu des exposés lors d'une réunion publique tenue le 20 mai 1986 à Scarborough. Les habitants de la région s'inquiétaient notamment des conséquences de l'aménagement d'un parc de loisir sur les lieux d'une ancienne décharge, de l'augmentation du bruit et de la circulation, et du manque d'information et de consultation du public. Pour sa part, le promoteur souhaitait que les travaux de construction

° projet hydroélectrique sur la rivière Magpie (question n° 22);

° chasse aux cerfs, Réserve de chasse de la Couronne de Peterborough (question n° 23).

Le ministre a également demandé conseil au Comité au sujet de deux autres questions :

° l'autorisation de l'évaluation environnementale de portée générale entreprise par le ministère des Richesses naturelles au sujet de la mise en valeur des pêcheries (question n° 21);

° le projet de politique du ministère de l'Environnement concernant l'exemption des agrandissements provisoires de décharges municipales (question n° 24).

Ces questions sont résumées ci-dessous.

# Gestion des habitats terrestres et aquatiques par les offices de protection de la nature - Demande d'exemption - Question n° 18

Le 26 mars 1986, l'honorable Jim Bradley, ministre de l'Environnement, a demandé au Comité d'entreprendre l'examen restreint d'une demande datée du 27 septembre 1985, présentée par l'Association des offices de protection de la nature de l'Ontario en vue de soustraire aux dispositions de la Loi sur les évaluations environnementales, les activités de gestion des habitats aquatiques et terrestres menées par les 38 offices de protection de la nature de l'Ontario.

Les activités à l'égard desquelles on demandait l'exemption visaient entre autres à l'amélioration des habitats, grâce notamment à l'enlèvement des débris, à l'entretien des cours d'eau et à l'amélioration des voies d'accès. Le Comité a notifié des groupes environnementaux et des organismes gouvernementaux choisis, qui lui ont fait parvenir leurs commentaires.

Le Comité a présenté son rapport au ministre le 1<sup>er</sup> mai 1986. Il recommandait que l'exemption soit accordée mais qu'elle se limite aux seules activités qui "ne risquaient pas d'entraîner des conséquences néfastes pour quelque espèce que ce soit". Le 14 janvier 1987, les activités de gestion des habitats aquatiques et terrestres ont été soustraites aux dispositions de la Loi à la faveur d'une modification du Règlement 293. Toutefois, l'exemption ne reposait pas sur la définition restreinte qu'avait



Ontario, étude menée pour le compte de la Fédération canadienne de recherche du droit de l'environnement.

Christine Lucyk a été nommée au Comité en novembre 1986. Elle travaillait pour la société Coopers and Lybrand Consulting Group en qualité de spécialiste de l'analyse économique dans le domaine de la gestion et de la mise en valeur des ressources. Mme Lucyk possède une grande expérience des questions touchant à l'aménagement urbain et régional et à l'environnement. Le Comité travaillait avec le concours d'une coordonnatrice à temps partiel, d'un chercheur à temps partiel et d'une secrétaire à temps plein. Leslie Cooper remplit les fonctions de coordonnatrice du Comité depuis mai 1985. Peter Pickfield, juriste spécialisé dans l'environnement, est le chercheur à temps partiel du Comité depuis août 1986. Trish Shayne s'est jointe à l'équipe en qualité de secrétaire en février 1987, succédant à Chris Edington.

Les frais de fonctionnement du Comité durant la période visée (1986-1987) se chiffraient à 120 000 \$ environ. Les honoraires du président et des membres sont de 225 \$ par jour et de 150 \$ par jour, respectivement.

## QUESTIONS À L'ÉTUDE

Durant la période visée (1986-1987), le Comité s'est occupé de huit questions adressées par le ministre.

Le Comité a été saisi de trois demandes d'exemption :

° activités de gestion des habitats aquatiques et terrestres par les Offices de protection de la nature (question n° 18);

° station municipale d'épuration des eaux d'égout, municipalité de Colchester South, et ouvrages municipaux de purification de l'eau, municipalité de Sydney (question n° 19);

° projet d'aménagement du rivage, ville d'Hamilton (question n° 25).

Le Comité a été saisi de trois demandes de désignation :  
° parc d'attractions aquatiques, ville de Scarborough (question n° 20);



semaines au maximum. Le Comité peut donner des avis particuliers aux groupes touchés et organiser une réunion avec ceux-ci.

**Examen interne** - Le ministre peut signifier au Comité que, pour des raisons d'intérêt économique, social ou public, il est parvenu à une décision préliminaire sur une demande d'exemption ou de désignation. Le ministre précise quand le rapport doit lui être remis. Il n'y a pas d'avis au public, ni de consultation publique.

Dans le cas d'un examen ouvert, le Comité notifie de la question un large éventail de groupes et de particuliers intéressés, dont le promoteur, les habitants directement touchés, les médias locaux, les groupes environnementaux de tout l'Ontario et les organismes gouvernementaux intéressés. Le Comité demande aux parties notifiées de faire part de leurs commentaires sur la question, soit par écrit, soit en personne à une audience publique tenue près du lieu proposé pour le projet.

Le Comité ouvre un dossier public à l'égard de chaque question, et les membres du public peuvent se procurer sur demande des exemplaires des rapports du Comité au ministre.

Par ailleurs, le Comité maintient une liste de toutes les demandes d'exemption, de désignation et de changement de catégorie ainsi que des décisions s'y rattachant. On peut également obtenir des exemplaires de cette liste sur demande.

## COMPOSITION ET FONCTIONNEMENT DU COMITÉ CONSULTATIF

Le Comité consultatif se compose de trois membres siégeant à temps partiel, dont un président, qui sont nommés par le ministre de l'Environnement.

Le professeur Philip Byer a été nommé président du Comité en novembre 1986, succédant ainsi à Marie Corbett, C.R., qui a remis sa démission en mai 1986. Il siège au Comité en qualité de membre depuis octobre 1985 et a fait office de président intérimaire après la démission de M<sup>me</sup> Corbett. Le professeur Byer est professeur adjoint au département de génie civil et à l'Institut for Environmental Studies de l'Université de Toronto. Il se spécialise dans la gestion des risques et dans l'évaluation des projets dans les domaines de l'environnement et du transport.

Le professeur Robert Gibson siège au comité depuis octobre 1985. Il est professeur adjoint d'études environnementales à l'Université de Waterloo. Son travail est axé sur les aspects idéologiques, politiques et juridiques de l'environnement. Dernièrement, le professeur Gibson a été codirecteur d'une étude en profondeur du processus d'évaluation environnementale en

Les évaluations de portée générale contiennent souvent une clause donnant le droit aux particuliers de demander qu'une entreprise change de catégorie et fasse l'objet d'une évaluation environnementale complète. Lorsqu'il reçoit une demande de ce genre, le ministre doit décider si le processus d'évaluation environnementale complet doit s'appliquer.

Sur réception d'une demande d'exemption, de désignation ou de changement de catégorie, le ministre peut demander conseil auprès du Comité. Des lors, le Comité se livre à un examen de la demande et présente ses recommandations au ministre.

Dans les conseils qu'il fournit au ministre, le Comité commente les raisons invoquées par le promoteur et d'autres parties en faveur de la demande d'exemption ou de désignation, ou en opposition à celle-ci. Le Comité se penche généralement sur des questions comme les répercussions possibles de l'entreprise sur l'environnement, la mesure dans laquelle les facteurs environnementaux sont pris en compte dans d'autres mécanismes juridiques d'autorisation, les divers moyens dont dispose le public pour exprimer son opinion, et enfin, l'urgence du projet. Le Comité ne prend pas position en recommandant l'autorisation ou le rejet d'une entreprise. Plutôt, il décide si la loi sur les évaluations environnementales doit ou non s'appliquer. Le rapport du comité est rendu public une fois que le ministre a pris sa décision.

Durant la période 1986-1987, le Comité a fait rapport au ministre sur trois demandes d'exemption et trois demandes de désignation. Sur demande, le Comité fournit également des conseils au ministre sur d'autres questions touchant à l'évaluation environnementale en Ontario. Le ministre a demandé conseil au Comité à propos de deux autres questions durant la période visée. Le présent rapport donne une description sommaire des huit questions.

Lorsqu'il saisit le Comité d'une question, le ministre peut indiquer celui des trois types d'examen suivants qui doit être entrepris par le Comité.

**Examen ouvert** - La tenue de consultations publiques est laissée à la discrétion du Comité. Le ministre précise quand le rapport doit être présenté, le délai maximal étant de six semaines. Le Comité publie un avis de demande d'exemption ou de désignation et, en pratique, tient une audience publique.

**Examen restreint** - Les consultations publiques se limitent aux groupes directement touchés, qui sont sélectionnés par le ministre ou par le Comité. Le rapport de ce dernier doit généralement être déposé au bout de quatre

QUATRIÈME RAPPORT ANNUEL  
DU COMITÉ CONSULTATIF DES ÉVALUATIONS ENVIRONNEMENTALES  
DU 1<sup>ER</sup> AVRIL 1986 AU 31 MARS 1987

INTRODUCTION

Le Comité consultatif des évaluations environnementales est chargé de conseiller le ministre de l'Environnement sur des questions concernant l'application de la Loi sur les évaluations environnementales à des projets et activités des secteurs public et privé en Ontario. Composé de trois membres sélectionnés à l'extérieur du gouvernement, le comité a été établi le 4 juillet 1983 à la suite des préoccupations exprimées au sujet de l'absence de participation publique aux décisions du ministre sur les projets devant être régis par la Loi sur les évaluations environnementales.

En vertu de cette Loi, le promoteur d'un projet est tenu de suivre un processus de planification qui tient compte de facteurs environnementaux. Le promoteur doit énoncer le but du projet, étudier ses effets potentiels sur l'environnement et examiner d'autres choix, envisager divers moyens de mitiger les répercussions nuisibles et exposer toutes ces données dans un document appelé Évaluation environnementale. Aux termes de la Loi, ce document fait l'objet d'un examen officiel par le gouvernement et le public, et ce dernier peut aussi demander la tenue d'une audience sur la question devant le Comité des évaluations environnementales.

La Loi sur les évaluations environnementales précise qu'il faut préparer une évaluation environnementale à l'égard de toutes les entreprises du secteur public, s'entendant des sociétés, des activités, des projets, des plans ou des programmes du gouvernement de l'Ontario, des municipalités et d'autres organismes publics comme Ontario Hydro. Sont toutefois soustraites aux dispositions de la Loi certaines catégories d'activités et de projets publics dont on juge que les répercussions environnementales ne sont pas importantes. Par ailleurs, un promoteur du secteur public peut présenter au ministre de l'Environnement une demande de dérogation à l'égard d'un projet public.

Dans le secteur privé, seuls les projets spécialement désignés sont soumis aux dispositions de la Loi. Tout groupe ou individu peut demander la désignation d'une entreprise du secteur privé. La décision du ministre concernant l'exemption ou la désignation d'une entreprise est soumise à l'approbation du Cabinet.

Certaines entreprises font l'objet de ce qu'on appelle une évaluation environnementale de portée générale, applicable aux catégories de projets qui partagent les mêmes caractéristiques essentielles, qui se répètent fréquemment et dont l'envergure est relativement faible.





# QUATRIÈME RAPPORT ANNUEL

## COMITÉ CONSULTATIF DES ÉVALUATIONS ENVIRONNEMENTALES DE L'ONTARIO

1<sup>er</sup> avril 1986 - 31 mars 1987

Philip H. Byer, Président  
Robert B. Gibson, membre du comité  
Christine S. Lucyk, membre du comité



Comité  
consultatif  
des évaluations  
environnementales

Quatrième rapport annuel  
1986-1987



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Government  
Publications

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# **Ontario Environmental Assessment Advisory Committee**

**5th Annual Report**  
**1987-1988**







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**FIFTH ANNUAL REPORT**  
**ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE**

**COVERING THE PERIOD**  
**APRIL 1, 1987 to MARCH 31, 1988**

**Dr. Philip Byer, Chairman**  
**Dr. Robert Gibson, Member**  
**Ms. Christine Lucyk, Member**

**Committee Office:**  
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**Toronto, Ontario M4V 1K6**  
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**On peut également se procurer un exemplaire de ce  
document en s'adressant au bureau de Comité**



**FIFTH ANNUAL REPORT  
ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE  
COVERING THE PERIOD APRIL 1, 1987 to MARCH 31, 1988**

## **INTRODUCTION**

The Ontario Environmental Assessment Advisory Committee provides advice to the Minister of the Environment on matters relating to the application of the Environmental Assessment Act to public and private sector projects and activities in Ontario. The Committee, consisting of three members selected from outside the government, was established in 1983 to increase public input into the Minister's decisions on what projects should be subject to the requirements of the Environmental Assessment Act.

This Act requires the proponent of a proposed undertaking to follow a planning process which addresses potential environmental concerns. The proponent must state the purpose of the undertaking, examine the potential environmental effects of the undertaking and alternatives to it, consider means of mitigating adverse environmental impacts, and prepare a document called an environmental assessment which sets out this information. Under the Act, there is a formal review of this document by both government and the public, and the public may request a hearing on the matter before the Environmental Assessment Board.

The Environmental Assessment Act requires that environmental assessments be prepared for all public sector undertakings, which include activities, plans, and programs of the Ontario Government, municipalities, and other public bodies such as Ontario Hydro and conservation authorities. However, certain categories of public activities and undertakings judged not to have significant environmental impacts have been excluded from the Act. Further, a public sector proponent may make a request to the Minister of the Environment to exempt a public undertaking from the requirements of the Act.

Private sector undertakings are subject to the requirements of the Act only when specifically designated. Any individual or group may request the designation of a private sector undertaking. The Minister's decision to exempt or designate an undertaking is subject to the approval of Cabinet.

Some undertakings are subject to what is called a class environmental assessment. A class environmental assessment sets out a planning process for a class of undertakings which have common essential characteristics, occur frequently, and are relatively minor in scale. Class assessments generally have a provision which gives individuals the right to request that an undertaking be "bumped-up" to a full, individual environmental assessment. If such a request is made, the Minister must decide whether the individual environmental assessment process is appropriate.





Upon receipt of a request for exemption, designation, or bump-up, the Minister may seek the advice of the Committee. The Committee then carries out a review of the request and reports to the Minister with its recommendation. During 1987-88, the Committee reported to the Minister on one exemption request and one designation request.

In its advice to the Minister, the Committee comments on the reasons provided by the proponent and other parties for or against the exemption or designation of the undertaking. The Committee generally considers issues such as the potential environmental impacts of the undertaking, the adequacy of other statutory approvals as a means of addressing environmental concerns, other opportunities for public input, and the urgency of proceeding with the undertaking. The Committee does not take a position on whether or not the undertaking should be approved; instead it determines whether or not the use of the Environmental Assessment Act is appropriate. The Committee's report is made public once the Minister has made a decision.

The Committee also provides, upon request, advice to the Minister on other matters relating to environmental assessment in Ontario. In 1987-88 the Minister requested the advice of the Committee on four such matters. Brief descriptions of the six referrals during 1987-88 are provided in this report.

When referring a matter to the Committee, the Minister may indicate which of the following types of review is to be undertaken by the Committee.

**Open Review** The Committee gives public notice of the review to a wide range of interested groups, individuals and government agencies, and generally holds a public meeting near the location of the proposed undertaking. The Committee requests that comments on the referral be provided either in writing or in person at the public meeting. The Committee's advice is normally required within six weeks.

**Defined Review** Public notice and consultation are limited to directly affected groups and individuals selected by the Minister or the Committee. The Committee may hold a meeting with affected groups and individuals. The Committee's advice is normally required within six weeks.

**Internal Review** There is no public notice or consultation. The normal time for this type of review is two weeks.

The Committee maintains a public file for each referral and copies of the Committee's reports to the Minister are available to the public once the Minister has made a decision on the matter.

The Committee also monitors and maintains a list of all exemption, designation and bump-up requests made to the Minister and the decisions respecting them. This list is also available to the public on request.



## **MEMBERSHIP AND OPERATION OF THE COMMITTEE**

The Advisory Committee consists of three part-time members, including a chairman, who are appointed by the Minister of the Environment through an Order in Council.

Dr. Philip Byer has served as a member of the Committee since October 1985 and was appointed chairman of the Committee in November 1986. Dr. Byer is an Associate Professor in the Department of Civil Engineering and the Institute for Environmental Studies at the University of Toronto. His expertise is in risk management and project evaluation in the environmental and transportation fields.

Dr. Robert Gibson has been a member of the Committee since October 1985. He is an Assistant Professor of Environmental Studies at the University of Waterloo. His work has centred on environmental ideology, policy and regulatory issues. Dr. Gibson co-directed an intensive study, published in 1986, of the environmental assessment process in Ontario for the Canadian Environmental Law Research Foundation.

Ms. Christine Lucyk was appointed as a member in November 1986. She works for the Coopers and Lybrand Consulting Group where she specializes in economic analysis relating to resource management and development. Ms. Lucyk has broad experience dealing with urban and regional planning.

The Committee operates with the assistance of a part-time co-ordinator, part-time researcher, and full-time secretary. Pam Wheaton, a planner with a background in environmental issues has been co-ordinator for the Committee since December 1987. Peter Pickfield, an environmental lawyer, has been assisting the Committee as researcher since August 1986. Trish Shayne joined the staff as secretary in February 1987.

The operating cost of the Committee during the 1987-88 reporting year was \$88,000. The chairman and members are remunerated at rates of \$225. per day and \$150. per day, respectively.

## **REFERRALS**

During the 1987-1988 reporting period, the Committee provided advice to the Minister on seven matters, including one exemption request, one designation request, three proposed policies of the Ministry, a Ministry submission to the federal government, and a supplementary report on a previous referral. These referrals are summarized below.





### Supplementary Report - Referral #21 - Advice on Approval of the Ministry of Natural Resources' Class Environmental Assessment for Fishery Reclamation

In April 1987 the Committee was asked to review Conditions of Approval which had been drafted subsequent to the Committee's June 1986 report on the Ministry of Natural Resources' Class Environmental Assessment for Fishery Reclamation (Referral #21). In its initial report, the Committee had recommended approval of the Class EA provided a number of conditions were included in order to ensure environmental safeguards and adequate public involvement.

On April 22, 1987 the Committee submitted its supplementary report containing a number of proposed changes to the draft conditions, including the following recommendations:

- . fishery reclamations in lakes should be limited in number and viewed as experimental in nature;
- . extension of approval beyond 5 years should not be allowed without thorough, meaningful public review;
- . an MOE Pesticides Control Officer should be present during all applications of pesticides in lakes; and
- . the Class EA should also apply to MNR's Community Fishery Involvement Program.

On May 8, 1987 the Minister approved the Class EA for Fishery Reclamation subject to conditions generally in accord with the Committee's recommendations.

### Referral #26 - Advice on Ministry of the Environment Policies on the Environmental Assessment Process

On July 20, 1987 the Minister asked the Committee to conduct an Internal Review of the Ministry's proposed policies on:

- . Presubmission Consultation in the EA Process; and
- . The Role of the Review and the Review Participants in the EA Process.



The Committee submitted its report on August 24, 1987. It was the Committee's view that these publicly stated policies would be of benefit to the EA process and its participants, by providing the proponent, public and government with clear statements of their responsibilities during presubmission consultation and the review process, and how to meet those responsibilities. The Committee recommended approval of the proposed policies provided that minor changes are made to address a number of specific concerns. The Committee also identified the following general issues for consideration during the Ministry's overall review of the EA process.

#### Presubmission Consultation

- . the need to address broad issues and concerns; such as cumulative effects;
- . the lack of a legal requirement for presubmission consultation;
- . the need for early and broad public notification;
- . the allocation of intervenor funding; and
- . special consideration for application of the policy to private undertakings (eg. the protection of proprietary information).

#### Review of EA Documents

- . the need to be comprehensive during the review and to address concerns and issues beyond the mandates of government agencies;
- . the opportunity for independent review through the MOE;
- . the role and timing of public involvement in the review; and
- . the adequacy of government resources for conducting reviews.

In November 1987, the Minister released the approved policies.





## Referral #27 - Request for Exemption of Wildlife Management Activities in the Peterborough Crown Game Preserve

On December 16, 1987 the Minister asked the Committee to conduct a Defined Review of the Ministry of Natural Resources' exemption request for wildlife management activities in the Peterborough Crown Game Preserve. This review was a follow-up to the Committee's October 1986 review of a request for designation of a controlled deer hunt in the Preserve (Referral #23).

In its report on the proposed 1986 hunt, the Committee recommended against requiring an environmental assessment. It also recommended, however, that no further hunting be permitted until Cabinet ruled on the question of whether or not hunting should be allowed in the Preserve, and until MNR completed a public planning process for wildlife management activities in the Preserve. The Committee also recommended a number of specific requirements for this planning process.

These recommendations were accepted in principle by the Minister of the Environment and Minister of Natural Resources in October 1986.

On June 4, 1987 MNR submitted a draft exemption order for wildlife management activities in the Peterborough Crown Game Preserve. This was the subject of Referral #27. At that time, the Cabinet had not yet been asked to rule on the question of hunting in the Preserve.

Approximately 350 submissions on the exemption request were received by the Committee. Generally, supporters fell into two groups; those in favour of hunting in the Preserve supported the exemption request, and those who opposed hunting in the Preserve favoured full environmental assessment. Those in the first group submitted that a Cabinet decision was not necessary and that wildlife management should be solely the responsibility of MNR. Those in the second group questioned MNR's credibility as wildlife managers and submitted that a Cabinet decision on the matter was required.

On February 5, 1988 the Committee submitted its report to the Minister recommending that the exemption not be considered until Cabinet rules on the question of hunting in the Preserve. If Cabinet allows hunting in the Preserve, an exemption order may be granted provided certain conditions are added to the draft order.

At the request of the Minister, the Committee released its report to the public on April 27, 1988. Subsequently, MNR withdrew its exemption request and stated that it will be reviewing the role of game preserves, and developing a wildlife policy for review by Cabinet.



Referral #28 - Advice on the Submission by the Ministry of the Environment to Environment Canada on Improving the Federal Environmental Assessment and Review Process

On January 19, 1988 the Minister asked the Committee to conduct an Internal Review of the Ministry's draft submission to Environment Canada on its proposal to improve the Federal Environmental Assessment and Review Process (EARP). The Committee reviewed the draft submission and reported to the Minister on January 25, 1988.

The Committee recommended that the Ministry's submission emphasize the need to strengthen the federal requirements to make them equivalent to the EA process in Ontario. Specifically, the Committee recommended that the submission should call for the following changes in the federal process:

- . EARP should be a legislated requirement;
- . EARP should require broader application of the process and specify criteria for determining when the process need not apply;
- . EARP should require the consideration of alternatives;
- . EARP should use a broader definition of environment; and
- . EARP should require early and effective public involvement.

On February 2, 1988 the Ministry made its submission to Environment Canada, incorporating the Committee's recommendations.

Referral #29 - Advice on a Ministry of the Environment Policy on Environmental Assessment Act Exemptions for Interim Expansions of Municipal Waste Landfills

On March 8, 1988 the Minister asked the Committee to conduct an Internal Review of the Ministry's proposed policy on Environmental Assessment Act exemptions for interim expansions of municipal waste sites. This referral was a follow-up to Referral #24 in which the Committee had conducted a Defined Review of an earlier draft of the policy. The proposed policy is meant to assist municipalities whose Certificates of Approval for their current landfill sites will expire before long-term waste management projects can be approved under the Environmental Assessment Act. The draft policy sets out a number of conditions which municipalities must meet in order to obtain an exemption for an interim expansion.

The Committee submitted its report to the Minister on March 23, 1988. Because the policy has not been finalized, the Committee's recommendations are not yet public.





### Referral #30 - Request for Designation of the Kam 1 Hydro Development Project on the Kaministiquia River

On March 9, 1988 the Minister asked the Committee to conduct an Open Review of a designation request dated January 12, 1988 from the Thunder Bay Kayak and Canoe Club that a hydro-electric project on the Kaministiquia River proposed by Mr. Robert Whiteside be subject to the Environmental Assessment Act. The project would involve the construction of a dam and power station with a generating capacity of three megawatts at an estimated capital cost of six million dollars. The Minister was also required to consider designation because the Ministry of Natural Resources had determined that the project is a major undertaking, pursuant to a condition in the MNR exemption order for the disposition of crown resources.

The Committee held a public meeting, attended by 60 - 70 people, on March 29 in Kakabeka Falls, near the site of the proposed project. Proponents of the project submitted that the project would be economically beneficial to the two adjacent communities and provide additional flat water recreational opportunities. They also submitted that an environmental assessment would cause unnecessary delay and threaten the economic viability of the project. The opponents submitted that the project would eliminate a regionally unique whitewater recreational resource and have other negative environmental impacts. They submitted that an environmental assessment would provide the only opportunity to evaluate independently the relative merits of competing uses of the site.

The Committee submitted its report to the Minister on April 8 recommending that the project be designated under the Environmental Assessment Act. In the Committee's view, the Environmental Assessment Act provides the only fair, open and informed public process which can address the conflict over existing and proposed uses of the river. The Committee also recommended that the proponent should be allowed to limit consideration of alternatives to other feasible sites for small-scale hydro-electric development in the same region, that the proponent should be given financial assistance to study alternative sites, that the government should make special effort to expedite the environmental assessment process for this project, and that the Ministry of the Environment should review the current process for determining the application of the Environmental Assessment Act to private sector, small-scale hydro developments.

On May 19, the Minister announced the government's decision to designate the project under the Environmental Assessment Act limiting the consideration of alternatives to hydro-electric facilities and to sites on the Kaministiquia River and its tributaries.



## MONITORING OF REQUESTS

In addition to providing advice to the Minister of the Environment on individual requests for exemption, designation or bump-up, the Committee monitors all such requests. During the 1987-88 reporting period, the Minister received requests for a total of 61 undertakings: exemption requests for 28 undertakings, designation requests for 25 undertakings, and bump-up requests for 8 undertakings. Only two of these were referred to the Committee during the reporting period.

Table I below summarizes the status of these requests as of September 1, 1988. As shown in the table, five months following the last request, most of the exemption requests had been granted and none denied, all but one of the bump-up requests had been denied with a decision on the other pending, and decisions on more than half of the designation requests had not been made.

### Exemption Requests

Of the 28 exemption requests, five were from municipalities including two interim landfill expansions, a landfill boundary alteration, land acquisition for a highway interchange, and an energy-from-waste facility. In addition, the Association of Municipalities of Ontario requested an extension of their existing exemption for municipal water management projects.

**Table I** Undertakings for which Exemption, Designation, or Bump-up was Requested, April 1, 1987 - March 31, 1988

	Exemption	Bump-Up	Designation
<b>Total Requests</b>	28	8	25
<b>Status (September 1, 1988)</b>			
Granted	19	0	2
Denied	0	6	6
Pending	8	1	14
Other*	1	1	3
<b>Referred to EAAC</b>	1	0	1

\* Other includes withdrawn undertakings, withdrawn requests, and undertakings under federal jurisdiction.





Nine exemption requests were from the Ministry of Government Services (MGS) for building projects, including a research centre, travel centre, two facilities for offenders, and five office projects, several of which are part of the Northern Ontario Relocation Program under which some government offices are being moved to northern locations. Two other MGS exemption requests were for its land management activities including acquisition, optioning, planning, and sale of property.

The Ministry of Natural Resources requested five exemptions concerning a cottage lot development, the Provincial parks program, the development of a fish culture facility, the development of small-scale projects, and wildlife management activities in the Peterborough Crown Game Preserve. This last one, which was referred to the Committee (Referral #27), was withdrawn following public release of the Committee's report.

Three other exemption requests were from the Ministry of Northern Development and Mines for a mine access road, the Ministry of the Environment for a contaminated soil replacement project, and GO Transit for property acquisition for a station. There were three exemption requests for hydro projects, concerning the building of two hydro sub-stations and a program for the development of remote community energy supplies.

### **Bump-Up Requests**

Of the eight bump-up requests, five involved the construction or upgrading of municipal water and sewage systems. These projects fall under the Class Environmental Assessment for Municipal Sewer and Water Projects. One of these was withdrawn.

The three other bump-up requests include two access road projects falling under the MNR Class Environmental Assessment for Access Roads, and the Hamilton Perimeter Road project falling under the Class Environmental Assessment for Municipal Roads.

### **Designation Requests**

Table 2 shows the breakdown of designation requests between private and public sector undertakings received by the Minister during the past four years. Public sector designation requests are for public undertakings which have previously been exempted from the Environmental Assessment Act.

In 1987-88, there were requests for the designation of 16 private sector undertakings including: three mining projects; two quarry developments; two small-scale hydro projects (of which one was referred to the Committee); two transportation proposals, one for hazardous wastes and the other for aggregates; two gravel pit proposals; a waste landfill and a landfill expansion; an energy from waste project; a TV transmission tower; an industrial development; and a condominium development. The small-scale hydro project that was referred to the Committee has been designated, the Minister has announced that the private landfill is to be designated and two requests have been withdrawn. The other requests have either been denied or decisions are pending.



**Table 2** Designation Requests, April 1, 1984 - March 31, 1988

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<u>Year</u>	<u>Private Sector</u>	<u>Public Sector</u>	<u>Total</u>	<u>Status as of September 1, 1988</u>			
				<u>Granted</u>	<u>Denied</u>	<u>Pending</u>	<u>Other*</u>
1984-85	2	3	5	-	5	-	-
1985-86	9	6	15	-	9	1	5
1986-87	15	7	22	2	5	6	9
1987-88	16	9	25	2	6	14	3
Totals	<u>42</u>	<u>25</u>	<u>67</u>	<u>4</u>	<u>25</u>	<u>21</u>	<u>17</u>

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\* Other includes withdrawn undertakings, withdrawn requests, and undertakings under federal jurisdiction.

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The nine public sector undertakings include: flood control activities by two conservation authorities; a dam project by Ontario Hydro; a municipal rezoning; two timber management plans and an extension of a forest access road by MNR; a municipal road widening project; and a municipal development proposal.

Further detail on these exemption, bump-up and designation requests can be obtained from the Committee office.

## **SUMMARY REMARKS: ISSUES AND OPPORTUNITIES**

The Environmental Assessment Advisory Committee enters its sixth year of operation with a renewed mandate to provide independent, public input to the Minister of the Environment regarding the environmental assessment process in Ontario. In October 1987, following a sunset review, the Committee was renewed by an Order In Council. Further, the Committee signed a revised Memorandum of Understanding with the Ministry, which sets out the Committee's role and responsibilities and the operating arrangements between the Ministry and Committee.

The Committee continues to provide advice on the important question of whether the Environmental Assessment Act should apply to particular undertakings, as well as





advice on policies relating to environmental assessment. The Committee, however, has been underutilized in reviewing specific exemption and designation requests, with only two such referrals in 1987-88.

The new Memorandum also establishes two important responsibilities for the Committee not set out in the previous Memorandum. First, it sets out in writing the Committee's role of monitoring all designation, exemption and bump-up requests. Second, the Memorandum states that the Committee may bring matters of concern relating to the environmental assessment process to the attention of the Minister.

In last year's Annual Report, the Committee set out a number of problems and opportunities presented by Ontario's environmental assessment process, which it had identified while reviewing specific designation and exemption requests and while carrying out its monitoring function. These six areas remain a continuing concern to the Committee.

**Private Sector Designations** The Committee identified the need for policies, guidelines and procedures to assist in determining the applicability of the Act to private sector undertakings. The need for these policies is underscored by the dramatic increase in requests by members of the public for designation of private sector undertakings over the past few years, and by the widespread uncertainty of proponents and members of the public about whether or not the Act will be applied to a particular undertaking. The Committee also noted that it is necessary to address the common perception of proponents that time delays and associated costs will threaten the viability of undertakings subjected to environmental assessment requirements.

**Timing of Decisions** The Committee observed that the time taken to decide whether or not the Act is to apply to a particular undertaking has been a significant source of delay. These delays often serve to lengthen unduly the period of uncertainty regarding a project's status under the Act and to increase the proponent's concerns that the environmental assessment process will add time and costs to the project.

**Combined Public and Private Sector Undertakings** The Committee noted the need for clarification of the applicability of the Act to undertakings with combined public and private sector involvement.

**Exemption Orders** The Committee discussed the Ministry's frequent use of exemption orders with detailed conditions as an alternative planning tool to full application of the Act, and recommended that caution be exercised in the use of such exemption orders. It stated that there was need to ensure that conditions of exemption are clearly and precisely set out in the order and are understood and complied with by the proponent.



**Environmental Assessment and Other Approvals** The Committee identified the need to improve the efficiency of the government approvals process for undertakings, by integrating more effectively Environmental Assessment Act requirements with those of other statutes such as the Environmental Protection Act, Ontario Water Resources Act, and Planning Act.

**Environmental Assessment and Northern Development** The Committee noted that many recent designation and exemption requests have involved development projects in northern Ontario, presenting the traditional perception of conflict between environmental protection and economic development. The Committee identified the need for a separate policy to deal with the recurring and inter-related economic, planning and environmental issues unique to this region.

A year later these issues of concern continue to challenge public and private sector proponents, members of the public and government agencies in their efforts to carry out sound environmental planning. While these issues should be addressed through the government's current Environmental Assessment Program Improvement Project (EAPIP), changes in some areas need not await completion of the EAPIP review. In particular, the development of ministry policies and procedures in three of the areas identified above should be made a high priority.

**Private Sector Designations** Environmental problems do not distinguish between private and public projects. While the environmental assessment process currently focuses, almost exclusively, on public sector undertakings, members of the public continue to submit requests to the Minister which require him to consider applying this process to specific private sector activities. During the reporting period, the Minister received requests by members of the public for designation of 16 private sector undertakings, a record for a twelve month period. The committee had the opportunity to study one of these private sector designation requests in detail in its referral on the Kaministiquia River Hydro-Electric Development Project near Thunder Bay. In that referral, as in previous referrals involving private sector projects, the proponent raised concerns that might have been avoided if clear policies on whether and how the Act is to be applied to private sector projects had been available at the outset.

**Timing of Decisions** In the case of the Kaministiquia River Hydro-Electric Development Project, the delay associated with the decision about whether or not the Act was to apply, was a significant matter of concern. This is a continuing problem with the handling of most designation and exemption requests. For example, as of September 1, 1988, no decision had yet been made on 20 of the 47 designation requests received by the Minister in the previous two years. For those on which a decision on designation had been made, the waiting period averaged 5.4 months and ranged from 7 weeks to 14 months. Of the 20 requests for which no decision had been made, eight had been awaiting decision for over six months and five had been awaiting decision for over a year.





Long periods of uncertainty about the status of a particular undertaking under the Act create problems for all participants in the planning process. Private sector proponents are likely to be especially concerned by this delay, since they are not required to comply with the Act unless designated and generally do not plan for the environmental assessment process. If a decision is not made early, designation will usually force these proponents to back track to meet specific environmental assessment requirements.

The Committee can assist in meeting the objective of providing timely decisions on the application of the Act by reviewing and providing advice on designation and exemption requests for specific projects. During this past year, the Committee was asked to review only one such request and has been involved instead in the review of more general policies and procedures. While the Committee can be helpful in this latter regard, it can be equally useful in providing timely advice on the applicability of the Act to specific undertakings.

One group of proponents for which a decision on the applicability of the Act is of immediate importance is those municipalities in need of additional landfill capacity. Specifically, a policy is needed to assist municipalities which are planning to expand an existing waste landfill to meet immediate demands on an interim basis. In January 1987, the Committee reviewed and provided advice to the Minister on a proposed policy developed by the Ministry for this purpose. In March 1988, the Committee was asked to provide advice on a subsequent draft of this policy. However, the policy has not yet been finalized. In light of the growing pressures on many Ontario municipalities, such as Metropolitan Toronto, which face imminent short falls in landfill capacity, it is important that this policy be finalized as soon as possible.

**Environmental Assessment and Northern Development** Once again, this year a high proportion (about one half) of the designation requests concern undertakings to develop northern Ontario resources, such as mineral aggregates, timber and hydro-electric energy. In the Committee's view, the development of a separate policy to deal with the special problem of environmental assessment in northern Ontario is a priority. Further, it would be useful to clarify the approach to be taken for certain specific classes of undertakings, notably small-scale hydro-electric projects, for which future designation and exemption requests are likely to be received.

The Committee also notes a continuing increase in requests to bump up undertakings from class environmental assessment to individual assessment. Since several class assessments are just now being implemented and public awareness of the bump-up option is still growing, the Ministry should anticipate further increases in bump-up requests, and be prepared to handle them carefully as well as efficiently within the limited timeframe for decision making. Class assessments are a valuable innovation in



Ontario's process, but their credibility depends on proper implementation of the bump-up provisions. As the number of bump-up requests increases, it will become critical that the Ministry be able to show that requests are given prompt and serious attention and that undertakings will in fact be bumped up, where appropriate.

The Committee is also concerned about the amount of government resources devoted to environmental assessment in Ontario. These resources are particularly strained to deal with the increasing number of exemption, designation, and bump-up requests. In order not to jeopardize the process, it is imperative that additional resources be allocated to the Environmental Assessment Branch. The level of resources available to the Environmental Assessment Branch should reflect recognition that the value and credibility of the environmental assessment process depends heavily on thorough analysis and timely decision making by the administrators of the process. Unless the Branch has sufficient resources to ensure quick but comprehensive consideration of immediate case problems and proper attention to needs for new policies and procedures, the environmental assessment process in Ontario will not work.









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# **Ontario Environmental Assessment Advisory Committee**

**6th and 7th Annual Reports**

**1988-1989**

**1989-1990**







SIXTH AND SEVENTH ANNUAL REPORTS  
ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE

COVERING THE PERIODS

APRIL 1, 1988 to MARCH 31, 1989

and

APRIL 1, 1989 to MARCH 31, 1990

Dr. Philip H. Byer, Chairman  
Dr. Robert B. Gibson, Member  
Ms. Christine S. Lucyk, Member

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On peut également se procurer un exemplaire de ce  
document en s'adressant au bureau de Comité



**6th and 7th ANNUAL REPORTS  
ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE  
COVERING THE PERIOD APRIL 1, 1988 - MARCH 31, 1990**

## **INTRODUCTION**

The Ontario Environmental Assessment Advisory Committee provides advice to the Minister of the Environment on matters relating to the application of the Environmental Assessment Act to public and private sector projects and activities in Ontario. The Committee, consisting of three members selected from outside the government, was established in 1983 to increase public input into the Minister's decisions on what projects should be subject to the requirements of the Environmental Assessment Act.

This Act requires the proponent of a proposed undertaking to follow a planning process which addresses potential environmental concerns. The proponent must prepare a document called an environmental assessment which describes the purpose of and rationale for the undertaking, potential environmental effects of the undertaking and alternatives to it, and ways of mitigating adverse environmental impacts. Under the Act, there is a formal review of this document by both government and the public, and the public may request a hearing on the matter before the Environmental Assessment Board.

The Environmental Assessment Act requires that environmental assessments be prepared for all public sector undertakings, which include activities, plans and programs of the Ontario Government, municipalities, and other public bodies such as Ontario Hydro and conservation authorities. A public sector proponent may, however, make a request to the Minister of the Environment to exempt a public undertaking from the requirements of the Act.

Private sector undertakings are subject to the requirements of the Act only when specifically designated. Individuals or groups may request the designation of a private sector undertaking. The Minister's decision to exempt or designate an undertaking is subject to the approval of Cabinet.



Some undertakings are subject to what is called a class environmental assessment which sets out a special planning process for a class of undertakings which have common characteristics, occur frequently, and generally have predictable and relatively minor impacts. Class environmental assessments generally have a provision which gives the public the right to request that an undertaking be "bumped-up" to a full, individual environmental assessment. If such a request is made, the Minister must decide whether to grant the request.

Upon receipt of a request for exemption, designation, or bump-up, the Minister may seek the advice of the Committee by referring the matter to the Committee. The Minister may also seek the Committee's advice on other matters relating to environmental assessment in Ontario. When the Committee receives a referral, it carries out a review of the request and reports to the Minister with its recommendation.

During 1988-89, the Committee received referrals and reported to the Minister on one exemption request, one designation request, and two bump-up requests.

During 1989-90, the Committee received referrals on six designation requests and three bump-up requests. In three of these referrals, the Minister specifically asked the Committee to review the adequacy of the existing planning and approvals process to address environmental concerns.

In addition, in 1989-90, the Minister asked for the Committee's advice on the following:

- Phase 1 of the Environmental Assessment Program Improvement Project,
- Class EAs for Municipal Sewage and Water Projects and Municipal Road Projects, and
- Re-approval of the Class EA for Water Management Structures by Conservation Authorities.

A brief description of each of these sixteen referrals is provided in this report.

When referring a matter to the Committee, the Minister indicates which of the following types of review is to be undertaken.

**Open Review** The Committee gives public notice to and requests submissions from a wide range of interested groups, individuals and government agencies. The Committee's advice is normally required within six weeks.

**Defined Review** Public notice and consultation are limited to affected groups and individuals selected by the Minister and by the Committee. The Committee's advice is normally required within six weeks.

**Internal Review** There is no public notice or consultation. The normal time for this type of review is two weeks.

In Open and Defined Reviews, the Committee generally holds a public meeting in the evening near the location of the proposed undertaking. The Committee's public meetings allow for the proponent, government agencies, and public to make oral submissions to the Committee in a non-judicial setting. The Committee also invites written submissions.

In its reports to the Minister, the Committee considers reasons for or against environmental assessment provided by the proponent, government agencies, and the public. The Committee generally reviews the following issues:

- the potential environmental impacts of the undertaking,
- whether there are reasonable alternatives to the undertaking,
- the adequacy of other statutory approvals as a means of addressing environmental concerns,
- other opportunities for public input, and
- the urgency of proceeding with the undertaking.

The Committee does not take a position on whether or not the undertaking should be approved; instead, it recommends whether or not the use of the Environmental Assessment Act is appropriate. The Committee's report is made public at the time the Minister makes a decision.

The Committee maintains a list of referrals and a public file for each referral. Copies of each of the Committee's reports to the Minister are available to the public on request following the Minister's decision.

The Committee also monitors and maintains a list of all exemption, designation and bump-up requests and the Minister's decisions on them. This list is also available to the public on request.

## **MEMBERSHIP AND OPERATION OF THE COMMITTEE**

The Advisory Committee consists of three part-time members, including a chairman, who are appointed by the Minister of the Environment through an Order in Council.

Dr. Philip Byer has served as a member of the Committee since October 1985 and was appointed chairman of the Committee in November 1986. Dr. Byer is an Associate Professor in the Department of Civil Engineering and the Institute for Environmental Studies at the University of Toronto. He is a professional engineer with expertise in waste management and in project evaluation in the environmental and transportation fields.

Dr. Robert Gibson has been a member of the Committee since October 1985. He is an Associate Professor in the Department of Environment and Resource Studies at the University of Waterloo. His work has centred on environmental ideology, policy and regulatory issues. Dr. Gibson co-directed an intensive study, published in 1986, of the environmental assessment process in Ontario.

Ms. Christine Lucyk, was appointed as a member in November 1986. She works for the Coopers and Lybrand Consulting Group where she specializes in economic analysis relating to resource management and development. Ms. Lucyk has broad experience dealing with urban and regional planning.



The Committee operates with the assistance of a co-ordinator, part-time researchers, and secretary. The Committee's co-ordinator is Ms. Pam Wheaton, a planner with a background in environmental issues. The secretary to the Committee is Ms. Trish Shayne.

The operating cost of the Committee during the 1988-89 reporting year was \$117,240, and during 1989-90 was \$139,500. The chairman and members received per diem rates of \$225 and \$150 respectively. In February 1990, these rates were increased to \$270 and \$180.

## DECISIONS ON PAST REFERRALS

In the Committee's previous annual reports, covering activities through March 31, 1988, decisions were reported on all referrals except for two related referrals - Referrals #24 and #29 which reviewed a proposed Ministry policy on Environmental Assessment Act exemptions for interim expansions of municipal waste landfills. The Committee had recommended approval of the Ministry's proposed policy with some changes in wording and minor modifications, as well as additions regarding land acquisition and zoning, ministry response, and expiry and review of the policy. In November 1989, the Minister approved a "Policy on Environmental Assessment Act Exemptions for Interim Expansion of Municipal Landfills" incorporating many of the recommendations of the Committee.

## REFERRALS DURING 1988-89

The following are brief descriptions of the four reviews by the Committee during the period from April 1, 1988 to March 31, 1989.

### Referral #31 - Application of the Environmental Assessment Act to all Activities of the Ministry of Government Services

On July 20, 1988, the Minister asked the Committee to conduct an Open Review on a proposal by the Ministry of Government Services (MGS) on the application of the Environmental Assessment Act to its activities, including its land management activities. The Committee held public meetings on this matter in Toronto on September 14 and 23.

Although all activities of MGS are subject to the requirements of the Environmental Assessment Act, MGS had received 82 individual and program exemptions for its activities and projects since the Act was proclaimed in 1976, and had never carried out an environmental assessment under the Act.

The purpose of the MGS proposal was to establish a comprehensive approach to the application of the Environmental Assessment Act to its activities. The proposal divided MGS activities into four categories according to the type of activity and how the Environmental Assessment Act would apply.

The Committee submitted its report to the Minister on December 5, 1988 with ten recommendations, including the following:

- MGS should develop one or more class EAs for its activities;
- a proposed exemption for its land management activities should not be granted;
- existing program exemptions (exemptions for defined categories of activities) should be amended so that undertakings involving environmentally significant lands are not exempt, and should be revoked by December 31, 1990; and
- an exemption should be granted for land acquisition and optioning for non-government uses and for constructing government office buildings in urban areas.

In light of the Committee's recommendations to the Minister, the Ministry of Government Services committed itself to developing a class environmental assessment for its activities, and requested a program exemption for the period during which they are developing this class EA. On December 21, 1989, the Minister approved an interim program exemption (MGS-102), which expires no later than January 3, 1992. One of the conditions of the exemption is that MGS must develop a class EA and submit it by July 3, 1991.



Referral #32 - Widening of McLaughlin Road in the City of Mississauga - Requests for Bump-up

On September 29, 1988, the Minister asked the Committee to conduct a Defined Review on requests to bump-up to an individual environmental assessment the City of Mississauga's proposed widening of McLaughlin Road. The proposal was to widen the 2.2 kilometre section of McLaughlin Road between Bristol Road and Britannia Road from 2 lanes to 5 lanes.

The Committee held a public meeting in Mississauga on the evening of October 6. The main concerns raised by those requesting the bump-up centred on the cutting of trees for the proposed right of way, particularly on a section of the Peel Board of Education's Britannia Farm, a designated Environmental Protection Area.

At the public meeting, the City of Mississauga withdrew its original proposal and presented a new scaled-down widening which generally appeared to meet the concerns of the public, and which did not require further approval under the Environmental Assessment Act. The revised project has since been completed.

The Committee's report, submitted on October 17, 1988, presented recommendations related to the following issues raised during the referral:

- the boundaries between Schedules A and C of the Class EA for Municipal Road Projects should be clarified and incorporated in future revisions to the Class EA;
- any future widening of McLaughlin Road should be subject to the 5 phase Class EA process; and
- appropriate changes should be made to the Class EA for Municipal Road Projects or to Regulation 205 to address concerns about municipalities by-passing the EA process by having the private sector undertake projects which ultimately will be a municipal responsibility.

Referral #33 - Redevelopment of the Motel Strip Lands in the City of Etobicoke - Requests for Designation

On September 29, 1988, the Minister requested the Committee to conduct an Open Review on whether or not the proposed redevelopment of the "Motel Strip" lands in the City of Etobicoke should be subject to the Environmental Assessment Act. The Minister had received a request on August 24 from Ruth Grier, M.P.P. for the area, that an Official Plan Amendment for this redevelopment be designated under the Act.

The proposed project would consist of the redevelopment, by private developers, of 20.2 hectares of private lands and Lake Ontario shoreline for high density residential, commercial and park land uses. The waterfront portion of the project would combine public and private sector lands and activities, and involve lakefilling, dredging, and the construction of facilities such as marinas and shoreline roads. An Etobicoke City Council Official Plan Amendment to permit the redevelopment had been referred to the Ontario Municipal Board for a hearing.

The Committee held a public meeting, attended by about 175 people, on the evening of November 2 near the Motel Strip. Those supporting the request for an environmental assessment focused on the environmental impacts of the lakefilling and dredging activities, and the inadequacy of the Planning Act to address broad and cumulative environmental impacts and alternatives to the undertaking. Provincial, federal, and international recognition of serious contamination of this section of the Lake Ontario waterfront was noted as a rationale for a comprehensive, integrated environmental assessment. Those opposing an environmental assessment submitted that an official plan amendment is a conceptual policy statement and therefore not an undertaking as defined under the Environmental Assessment Act. They also stated that the Planning Act legislation was more appropriate than the Environmental Assessment Act to address land use questions, and provides for adequate environmental controls and public participation.

On November 10, 1988, the Committee submitted its report to the Minister with the following recommendations:

- redevelopment of the existing, privately held lands in the Motel Strip should not be subject to the Environmental Assessment Act;
- shoreline and nearshore redevelopment, including lakefilling, dredging, and associated facilities, along the Motel Strip should be subject to the Environmental Assessment Act, and there should be a single environmental assessment for this redevelopment with the Metropolitan Toronto and Region Conservation Authority (MTRCA) as either the proponent, or the coordinator of the several private developers;
- the provincial government should take an active role to ensure coordination of waterfront redevelopment of the Motel Strip lands with other waterfront redevelopments and ensure that cumulative environmental and planning effects are addressed fully; and
- the Ministry of Municipal Affairs should review the Planning Act to ensure that environmental concerns, including cumulative effects, are addressed comprehensively in the planning process, and the Ministry of the Environment should clarify when the Environmental Assessment Act should apply to development projects.

On May 9, 1989, the Minister released his decision that the area would not be designated under the Environmental Assessment Act provided that:

- an Environmental Management Master Plan for the area is completed;
- the City imposes methods of ensuring implementation of conditions of the Master Plan; and
- an on-site environmental consultant is hired during construction to ensure compliance to the official plan policies and Master Plan.

In addition, the Minister of Municipal Affairs declared the Official Plan Amendment to be a matter of provincial interest under Section 17(19) of the Planning Act, giving Cabinet authority to make the final decision on the amendment.



Since then, the Environmental Management Master Plan has been submitted, and on January 12, 1990 was approved with conditions by the Ministry.

Referral #34 - City of Toronto's Phase 1 Eastern Beaches Stormwater and Combined Sewer Overflow Detention Facility - Requests for Bump-Up

On February 6, 1989, the Minister asked the Committee to carry out a Defined Review on requests to bump up, to an individual environmental assessment, Phase 1 of the City of Toronto's proposed Eastern Beaches stormwater and combined sewer overflow detention facility. The City had followed the requirements of the Class EA for Municipal Sewage and Water Projects, and on January 13, 1989 the Minister received the first of several requests from area residents for an individual environmental assessment.

The proposed detention facility, designed to improve the water quality along Toronto's Eastern Beaches, would be developed in two phases. Under review was Phase 1, the construction of a \$4 million, 2,250 cubic metre underground tank in a park at the Eastern Beaches. Runoff would be collected and detained, and later pumped to Metro Toronto's Main Sewage Treatment Plant for treatment prior to discharge into Lake Ontario.

The Committee held a public meeting, attended by about 100 individuals, on the evening of February 27. Submitters raised differing views about the source of the pollution, the need to coordinate the planning of several related projects, the capacity of the Main Sewage Treatment Plant, the adequacy of the proposed technology and assessment of alternatives, impacts of the proposed tank on the neighborhood, and public consultation for the project.

On March 6, the Committee submitted its report recommending that:

- the proposed Phase 1 facility not be bump-up to an individual environmental assessment;

- the City of Toronto establish a liaison committee consisting of local residents and public works officials to address concerns during construction and operation of the Phase 1 facility; and
- planning of Phase 2 of the facility should follow the full five-step process set out for Schedule C projects in the Class EA for Municipal Sewage and Water Projects.

On March 27, the Minister announced his decision accepting the Committee's recommendations. Construction of the detention tank began in late 1989.

## REFERRALS DURING 1989-90

The following are brief descriptions of the ten referrals received by the Committee during the period from April 1, 1989 to March 31, 1990.

### Referral # 35 - Town of Caledon Road Along the King/Caledon Townline - Requests for Bump-up

On April 13, 1989, the Minister asked the Committee to conduct an Open Review on requests for an individual environmental assessment of the Town of Caledon's proposed construction/reconstruction of the King/Caledon Townline Road in Bolton. The Town was planning to undertake the project in several phases, and had prepared an Environmental Study Report (ESR) under the Class EA for Municipal Road Projects for a part of the overall project. The Minister received requests for an individual EA from the Township of King and several hundred Bolton and King Township residents.

The Committee held a public meeting on May 17, attended by about 125 individuals, at which the Town of Caledon argued that the early phase of the project was needed to relieve local traffic. Those who requested an environmental assessment stated that the ESR was inadequate, and that the construction of the project for which the ESR was done would prejudice planning in favour of a future extension of the road through an environmentally significant area.



The Committee submitted its report on May 30 stating that the decision to proceed with the project was based on insufficient information and inadequate environmental planning, as the transportation and environmental studies were used to rationalize previous decisions and considered only mitigation. The Committee also stated that the various phases of the project are related and should be considered as one project, even if it is divided into stages for the purposes of construction. The Committee recommended that the proposed construction of the Townline Road should be bumped up and a single individual assessment should be required for new arterial roads undertaken by the Town of Caledon to serve and bypass Bolton.

On July 7, 1989 the Minister accepted the Committee's recommendation.

Referral #36 - Mara Township Quarry Mining Truck Route - Requests for Bump-up

On May 31, 1989, the Minister asked the Committee to carry out an Open Review of requests by several local residents for an individual environmental assessment for a quarry mining truck route proposed by the Township of Mara in Simcoe County. The new route was intended to provide aggregate quarry companies in the region with a bypass around the Village of Brechin. Planning for the project had followed the requirements of the Class EA for Municipal Road Projects, including the preparation of an Environmental Study Report.

The Committee held a public meeting in Brechin on the evening of June 27, and submitted its report on July 10, concluding that the Environmental Study Report provided a thorough analysis and evaluation of the alternatives, and that opposition to the chosen alternative appeared to be based on individual differences of opinion. The Committee believed that it was unlikely that an individual environmental assessment would add substantively to the decision making process, but would result in delay and add cost to a project which is needed to address a significant problem for residents in the area. The Committee therefore recommended that the project not be bumped up to an individual environmental assessment. On September 12, 1989, the Minister accepted the Committee's recommendation.

In its report, the Committee also noted two issues raised in the referral that have implications of a broader nature and should be addressed in the review of the Municipal Class EAs. One issue is that a person formally involved in the Class EA process may benefit unfairly from involvement in the process. The second is the appropriateness of asking for public input after the municipal council has endorsed one of the alternatives. While the Committee did not believe that these issues affected the quality of the decision making in the Mara project, they are potential problems in the Class EA process.

Referral #37 - Development on the Creditview Wetland, City of Mississauga - Requests for Designation

On July 4, 1989, the Minister asked the Committee to conduct an Open Review and provide advice on the need for an environmental assessment for development on the Creditview Wetland and catchment area in Mississauga, and on other means of protecting the integrity of this Class III (regionally significant) Wetland. Two developers had received draft plan approval for housing developments on this 11.5 hectare wetland and catchment area. In November 1988, the Minister received a request, supported by several thousand letters, that these developments be designated under the Environmental Assessment Act. The Committee held a public meeting, attended by about 200 people, in Mississauga on September 13, 1989.

In its report, submitted on October 4, 1989, the Committee noted the inadequacy of the municipal planning process and public sector acquisition program to meet the challenge of wetland preservation. The Committee cited the lack of sufficient data to make informed decisions and the inadequacy of the wetland evaluation system to identify and assess small isolated wetlands. Planning at both the municipal and provincial levels should require an adequate land inventory, identification of natural areas, and a comparison of natural areas in terms of other regional natural areas. In order to ensure preservation of significant wetlands, there is a need to strengthen Planning Act requirements, in addition to a Wetlands Policy, and for a realistic budget for wetlands acquisition.



With respect to the Creditview Wetland, it was the Committee's opinion that every effort should be made to preserve the Wetland. The Committee recommended that the Minister should initiate and facilitate negotiations among the relevant parties, and that a mediator should be appointed to help with these negotiations. The Committee rejected designation under the Environmental Assessment Act in the first instance because it would be unlikely to produce any additional data about the significance of the Wetland, and, in comparison to negotiations, would be an indirect and lengthy process that would not necessarily provide an acceptable solution. If negotiations fail, however, then the only existing mechanisms to preserve the Wetland appeared to be designation under the Environmental Assessment Act or acquisition.

On October 31, the Minister accepted the Committee's recommendations and indicated his intention to designate the developments should negotiations fail. Negotiations have been proceeding, though without a mediator.

#### Referral #38 - The Adequacy of the Existing Environmental Planning and Approvals Process for the Ganaraska Watershed

On July 6, 1989, the Minister asked the Committee to conduct an Open Review on the adequacy of the existing environmental planning and approvals process to protect the watershed of the Ganaraska River in view of potential development in the area. The referral arose from designation requests by local residents concerned about development in the headwaters area in Durham Region. The Committee held a public meeting in Newcastle on September 7.

The Committee received submissions on the environmental significance and vulnerability of the Ganaraska Watershed and the Oak Ridges Moraine, the nature of development pressures across the Moraine, the adequacy of the existing planning and approvals process and options for improvements to this process.

On November 15, the Committee submitted its report to the Minister with fourteen recommendations regarding environmental planning and approvals in the Watershed, and more generally across the Oak Ridges Moraine and the Province. The Committee stated that a prerequisite for

sound land use planning is a full understanding of the resources and environmental features of the area to be protected, and the potential impacts of future activities on those resources and features, but that this necessary information is not currently available. The Committee therefore recommended that the Region of Durham, as part of its current Official Plan review, carry out, with provincial assistance, studies of environmental resources in the area and the potential cumulative impacts of land use changes.

In order to protect the Ganaraska headwaters area until these studies have been completed and the official plan revisions are in place, the Committee recommended that the Region of Durham impose a temporary moratorium on official plan amendments in the area. Also as a temporary measure, the Minister should direct Ministry staff who comment on proposed official plan amendments and applications for subdivision approval in the headwaters area to oppose all such applications.

Toward the same end, the Committee recommended that the Province use its power under the Planning Act to declare that land use changes in the headwaters area are matters of "provincial interest". If a temporary moratorium is not established effectively through these other means, the Minister should ask Cabinet to designate under the Environmental Assessment Act all proposals for land use intensification in the headwaters area.

The Committee also raised concerns about coordination among planning jurisdictions and the need to plan on an ecosystem basis. To address these concerns, the Committee recommended that the Province consider how to give Conservation Authorities, which are the only agencies with a mandate organized on a watershed basis, a more effective role in protecting against negative cumulative effects of land use planning policies and approvals. Because there is presently no agency with an explicit mandate to coordinate or even advocate overall protection of the environmental quality of the Oak Ridges Moraine, the Committee also recommended that the Province initiate a process for developing a comprehensive approach to land-use planning and environmental protection for the Moraine. Until this process is in place, the government should ensure interim protection of the Moraine.

In a second section of the report, the Committee outlined generic concerns about the existing environmental planning and approvals process as demonstrated in the Ganaraska case. The Committee set out four basic requirements for an environmentally enlightened land use planning process:

- collection of adequate baseline information on environmental resources, their importance and vulnerability;
- recognition of resource preservation and environmental protection goals and needs, identification of cumulative as well as specific impacts to be avoided, and the setting of appropriate development objectives and limitations;
- consistent and effective adherence to the identified goals, requirements, and limitations; and
- recognition and protection of interregional environmental resources.

The Committee argued that none of these prerequisites is now met in Ontario's current land use planning process, and that the process is not capable of ensuring permanent protection of environmentally important areas. The Committee stated that, in theory, the preparation of official plans for guiding land use under the Planning Act could anticipate and address the problems of environmental impacts if a reasonably complete information base were available, but in practice this does not happen and the limited protection afforded by official plan designation is vulnerable to incremental erosion. Procedures for amending official plans and approving individual projects also do not ensure effective recognition of environmental protection needs, especially where cumulative effects may be involved. Finally, the Committee noted a lack of co-ordination, and consequently, little consistency, in the environmental protection efforts of planning authorities. The Committee concluded that the current land-use planning and approvals process in Ontario is inadequate to the task of maintaining social and ecological quality in the face of development pressures.



The Committee recommended that the Province recognize that the existing land-use planning and approvals process does not provide satisfactory means of protecting the environment, especially from the negative cumulative effects of intensifying land use. The Province should begin immediately to prepare a package of reforms to incorporate effective commitment to environmental stewardship in land-use planning. As an immediate step, the Committee recommended that the Minister of the Environment initiate a review of options under the Environmental Assessment Act to ensure that effective attention is given to environmental concerns in land-use planning decisions. In addition, the Minister of Municipal Affairs should introduce an immediate amendment to the Planning Act to establish clearly that overall environmental quality issues and cumulative environmental effects are legitimate and necessary components of deliberations on land-use decisions.

Lastly, to address the problem of cumulative impacts, the Committee recommended that the Minister of Environment direct his staff to comment on the nature and significance of any cumulative environmental effects when reviewing official plans, plan amendments, and site specific proposals. The Minister should announce the government's intention to designate under the Environmental Assessment Act any planning proposal that raises significant, unattended concerns about cumulative environmental effects.

In December 1989, the Minister released the report for public comment. The Ministry received about sixty responses. No decisions regarding the recommendations have yet been made.

#### Referral #39 - Review of Recommendations of Phase I of the Environmental Assessment Program Improvement Project

In April 1988, the Ministry of the Environment began a review of Ontario's environmental assessment process. This review, known as the Environmental Assessment Program Improvement Project (EAPIP), was set up in two phases to examine ways of improving the effectiveness and efficiency of the process through changes in legislation, regulations, policies, guidelines and administrative practices. Phase 1 was to focus on non-controversial matters of an administrative nature; and Phase 2 was to examine more complex questions.

On July 26, 1989, the Minister asked the Committee to conduct an Open Review on the Phase 1 recommendations and related matters. Notices requesting submissions were sent to several thousand groups and individuals, and the Committee held public meetings in Thunder Bay and Toronto on September 19 and 20, 1989.

The Committee submitted its report in two parts. Part 1, which was submitted on October 20, 1989, addressed EAPIP's nine recommended changes requiring amendments to the Environmental Assessment Act. Of the nine proposed changes, the Committee recommended:

- full acceptance of one proposed change to provide that when the EA Board conducts a hearing, it exercises the Minister's powers to make decisions and impose terms and conditions;
- conditional acceptance of six changes regarding:
  - the mailing of notices to the public,
  - allowing the Minister to make changes to an undertaking after the acceptance/approval decisions,
  - public notice of submission of an environmental assessment,
  - delegation of specific aspects of an approval to a Director,
  - allowing the Minister or EA Board to amend previous approval decisions for the purpose of clarification, and
  - multiple hearings held under the Environmental Assessment Act, Part V of the Environmental Protection Act and the Ontario Water Resources Act;
- partial acceptance of one proposed change regarding the authority to make regulations; and
- rejection at this time, and the need for further consideration in Phase 2, of one proposed change concerning the use of Class Environmental Assessments.

Most of the Committee's recommendations added specificity to the changes proposed by EAPIP.

Part 2 of the Committee's report, submitted on December 8, 1989, summarized all additional comments made to the Committee but, in keeping with the purpose of Phase 1, discussed only those non-legislative matters raised by submitters that appeared to be non-controversial and relatively straightforward. Although the Committee appreciated that many of the controversial, legislative, and more complex points raised by submitters would be better addressed in Phase 2, the Committee felt that submitters had raised important matters which could be addressed immediately and did not have to be put entirely on hold until completion of Phase 2. The Committee saw opportunities for immediate government action to improve the EA process significantly, particularly with respect to the following:

- presubmission consultation,
- responsibilities of the EA Branch planner/review co-ordinator,
- time limits for government review,
- decision making on exemption and designation requests, and
- level of government resources committed to the environmental assessment process.

In late October 1989, the Ministry formed an Environmental Assessment Task Force to accelerate the process of developing a final discussion paper containing recommendations for reforms to the EA program. On January 11, 1990, the Minister released the Committee's Phase 1 reports to the public, and stated that Phases 1 and 2 of the review would be combined. The Minister also requested the Task Force to review whether some of the Committee's suggestions could be implemented prior to the completion of Phase 2. It is expected that the government will be releasing its discussion paper, which will incorporate both phases, in mid to late 1990. The Minister has stated that the Committee will conduct a public review of the paper.



Referral #40 - Condominium Development by Runnymede Development Corp. in the City of Scarborough - Requests for Designation

On August 24, 1989, the Minister asked the Committee to conduct an Open Review on whether a high-rise condominium development in the City of Scarborough should be subject to the Environmental Assessment Act. The Minister had received requests from a number of local residents and the Cities of Scarborough and Toronto that the development be designated under the Environmental Assessment Act.

The Committee held a public meeting in Scarborough on October 4. The major concerns raised by those wanting an environmental assessment were that the development would be over a former municipal landfill and that the scale of the development, which was approved over 20 years ago, is inappropriate today.

On November 10, the Committee reported to the Minister stating that the proposed development raises potentially significant environmental concerns related to both public health and safety, and land use planning. However, the necessary public review of the development could occur without using the Environmental Assessment Act if both the Minister and the City take specific steps. The public concerns had already been clearly identified and the development required approvals under the Environmental Protection Act. The Committee therefore recommended that the development not be designated under the Environmental Assessment Act provided that no approval is granted under the Environmental Protection Act (Sections 8 and 45) until the following steps are taken:

- the City of Scarborough has reviewed and adopted a position on the appropriateness of the current land use designation and exhausted its options in the courts and under the Planning Act;
- the proponent has considered alternative ways of managing the wastes on the site;
- the City has retained an engineering consultant to review the development and has made the consultant's report public; and
- a public liaison committee has been established to set terms of reference for the review and to provide input to the City.



On January 11, 1990, the Minister accepted the Committee's recommendation.

Referral # 41 - Sydenham Mills Subdivision in the Township of Sydenham, Grey County - Requests for Designation - and the Adequacy of the Existing Environmental Planning and Approval Process in Grey County

On November 21, 1989, the Minister asked the Committee to conduct an Open Review on two related matters:

- whether an environmental assessment should be required for a proposed subdivision in Sydenham Township in Grey County; and
- the adequacy of the existing planning and approvals process to address environmental concerns arising from land development in Grey County.

The Committee held public meetings, each attended by over 400 people, in the City of Owen Sound on January 11 and 22 and February 12, 1990, and received over 130 written or oral submissions on these two matters.

The Committee decided to address these two matters in separate reports, and on February 14 submitted a report on whether there should be an environmental assessment of the proposed Sydenham Mills Subdivision. Given the complexity and the amount of public interest in environmental planning in Grey County, more time was required to prepare a report on this larger issue. Since this second report has not yet been submitted, it will be summarized in a subsequent annual report.

In its report on the Sydenham Mills Subdivision, the Committee stated that the proposed 25 hectare, 25 lot estate-residential subdivision raises two types of environmental concerns: local biophysical impacts, and cumulative impacts of the subdivision together with other potential developments in the immediate area. These include potential impacts on surface and ground water, loss of a natural, wooded area, and the future need for municipal services.

The Committee found that controversy in this case arose in part from local residents' dissatisfaction with decision making by local planning bodies. For example, it is regrettable that the proponent pursued and received County approval for individual lot severences for part of the subdivision after public concerns were raised about the Plan of Subdivision. It is also unfortunate that responsibility fell to a private citizen to request a hearing of the Ontario Municipal Board (OMB) on these severence applications in order to ensure that the development would be considered as a whole.

Opponents of the subdivision requested an environmental assessment because of their concern that the OMB would not give due consideration to environmental impacts. However, the OMB clearly has the legislative power to consider the full range of environmental concerns when deciding on development applications, and would have this opportunity if the necessary information were presented to it.

The Committee, however, raised concerns that all the relevant information may not be presented by government agencies at the upcoming OMB hearing on the subdivision. The Committee stated that it is incumbent on these agencies to provide an independent review of the environmental issues and present their conclusions at the hearing. Otherwise, an undue burden falls on the public to ensure that these issues are addressed. The Committee also raised concerns about the cost to the public of participating in the existing planning process, particularly at an OMB hearing, as compared to participation in the environmental assessment process where there is intervenor funding and the awarding of costs. Finally, the Committee stated that estate-residential developments should be reviewed in light of cumulative effects on the environment, but that such effects may not be addressed adequately through the existing planning process. Government agencies, including the OMB, are limited in their abilities to consider cumulative effects since there is a lack of relevant data and the planning process focuses on individual development proposals.

The Committee concluded that, despite the concerns raised, the OMB should be able to address at least the local environmental concerns with respect to the proposed subdivision provided that government agencies carefully review the proponent's application and reports, and present their



findings at the OMB hearing. Designation of the subdivision under the Environmental Assessment Act would add little to the existing planning process, and would unnecessarily duplicate and delay decision making on the proposal.

On March 30, 1990, the Minister accepted the Committee's recommendation that the proposed subdivision not be designated under the Environmental Assessment Act, that the staff of MOE and other relevant agencies review the subdivision application and related reports in a comprehensive manner, including potential cumulative impacts on the surrounding area, and that they present these findings at the OMB hearing. At the OMB hearing which began on June 11 and is to resume in September, several ministries, including MOE, objected to the subdivision due to concerns raised in their reviews of the subdivision proposal.

#### Referral #42 - Evaluation of the Municipal Class Environmental Assessments

On November 21, 1989, the Minister requested the Committee to conduct an Open Review on the evaluation by the Municipal Engineers' Association (MEA) of the two Class Environmental Assessments for Municipal Sewage and Water Projects and for Municipal Road Projects. These Class EAs expire on April 2, 1992, and the Minister will have to decide on their extension and any necessary changes to them. In anticipation of this, the MEA is required to review these Class EAs and report to the Minister by April 1991.

The Minister asked the Committee for comments on whether the type of information being collected by the MEA is appropriate, whether the needs of all stakeholders are being adequately addressed, and any other related topics. The Minister also indicated that he plans to ask the Committee to carry out a public review on the request for extension of the approvals of the Class EAs which MEA is expected to submit by April 1991.

In its report, submitted on April 6, the Committee identified a number of issues and concerns regarding the adequacy of public involvement under the municipal Class EAs, application of the Class EAs to specific kinds of undertakings, and the overall effectiveness of the current requirements. The Committee recommended that any request by

the MEA to extend or change the municipal Class EAs include a discussion of how these issues and concerns are being addressed through proposed changes. The Committee also raised concerns and made recommendations about the clarity of the requirements and documents, and about the need for an education program on the Class EAs requirements, for monitoring the implementation and effectiveness of the Class EAs, and for a mechanism to amend and clarify them.

On May 30, the Minister wrote to the MEA stating that the Committee had raised a number of important concerns which the MEA should address prior to any request to extend or change the Class EAs.

Referral #43 - Extension of Approval of the Class Environmental Assessment for Water Management Structures by Conservation Authorities

On January 5, 1990, the Minister requested the Committee to conduct an Open Review on whether approval of the Class Environmental Assessment for Water Management Structures should be extended for another five year period, and what changes, if any, should be made to the Class EA. In September 1989, the Association of Conservation Authorities (ACAO), on behalf of the 38 Authorities, requested an extension of the approval of this Class EA which expires in December 1990.

This Class EA applies to projects that address problems associated with flooding, erosion and sedimentation, and having construction costs ranging between \$175,000 and \$2.7 million. These include channel alterations and bank stabilization, dykes, dams, impoundments and weirs, and shoreline protection structures undertaken by Conservation Authorities and, less frequently, by municipalities. No environmental assessment is required for projects with construction costs less than \$175,000 and individual environmental assessments are required for projects with construction costs more than \$2.7 million.

The Committee held a public meeting in Toronto on April 11, 1990 and submitted its report to the Minister on June 22, 1990.



Referral #44 - Eagle Creek Golf Course and Subdivision - Requests for Designation

On January 17, 1990, the Minister asked the Committee to conduct an Open Review on whether an environmental assessment should be required for the proposed 123 hectare Eagle Creek Golf Course and Subdivision in the Township of West Carleton. The Minister had received requests to designate the development under the Environmental Assessment Act because of concerns about the potential negative impacts on area water supplies and the adjacent Constance Creek Wetland (a Class I wetland) due to the use of chemicals on the golf course and the infilling of part of the Wetland.

The Committee held a meeting in West Carleton on March 21, and on April 23 submitted an interim report to the Minister saying that the Committee had decided not to make a recommendation at that time. Since an Ontario Municipal Board (OMB) hearing on the matter was to resume on April 30, the Committee decided, and informed the participants, that it would wait until the OMB had made its decision under the Planning Act and then ask for further submissions on the need for an environmental assessment. The OMB has completed its hearing, and a decision is pending.

Referral #45 - Bradford Public Utilities Commission Well on the Horlings Property in King Township - Requests for Bump-up - and Water Taking In and Near the Holland Marsh

On March 1, 1990, the Minister requested the Committee to conduct an Open Review on two related matters:

- whether an individual environmental assessment should be required for a proposed municipal well for the Town of Bradford, to be located in the Holland Marsh in King Township; and
- the more general issue of water taking as it relates to urban growth and farming activities in the Holland Marsh and adjacent areas in York Region and Simcoe County.

The Bradford Public Utilities Commission (BPUC) has proposed to develop a municipal well in King Township, a pumping station and a

pipeline to meet part of Bradford's future water needs. Planning for this undertaking followed the planning process for a Schedule C project under the Class Environmental Assessment for Municipal Sewage and Water Projects. Following the release of the Environmental Study Report, King Township passed a resolution in July 1989 requesting a bump-up to require an individual environmental assessment for the project.

The Committee held a public meeting on April 11 and 12 in Newmarket, and reported to the Minister on June 29, 1990.

#### Referral #46 - Expansion of LAC Minerals Ltd.'s Limestone Aggregate Operations in the Town of Milton - Requests for Designation

On March 30, 1990, the Minister asked the Committee to conduct an Open Review on requests to designate a proposal by LAC Minerals Ltd. to expand its limestone aggregate operations in the Town of Milton. The Minister had received the first of numerous designation requests in July 1989.

On April 12, LAC Minerals announced that it will not proceed with its application to expand its operations. The Committee, in consultation with the Minister, therefore decided that its review should wait until there is more information on the future use of this land by LAC Minerals, and requested parties to provide the Committee with information to assist in determining if and when to proceed with the review.

### **MONITORING OF REQUESTS**

In addition to providing advice to the Minister of the Environment on individual requests for exemption, designation or bump-up, the Committee monitors all such requests.

During the 1988-89 reporting period, the Minister received requests concerning 81 undertakings: exemption requests for 32 undertakings, bump-up requests for 23 undertakings, and designation requests for 26 undertakings.

During the 1989-90 reporting period, the Minister received requests concerning 99 undertakings: exemption requests for 32 undertakings, bump-up requests for 25 undertakings, and designation requests for 42 undertakings.

Of the total of 180 requests during the two year period, 5 bump-up requests and 7 designation requests were referred to the Committee. Table 1 summarizes the status of these requests as of March 31, 1990.

**Table 1** Undertakings for which Exemption, Designation, or Bump-up was Requested, April 1, 1988 - March 31, 1989 and April 1, 1989 - March 31, 1990

	Exemption		Bump-up		Designation	
	<u>88-89</u>	<u>89-90</u>	<u>88-89</u>	<u>89-90</u>	<u>88-89</u>	<u>89-90</u>
<b>Total Requests</b>	<b>32</b>	<b>32</b>	<b>23</b>	<b>25</b>	<b>26</b>	<b>42</b>
<b>Status (March 31, 1990)</b>						
Granted	28	21	1	0	3	4
Denied	0	0	15	8	15	4
Pending	3	11	2	11	5	32
Other*	1	0	5	6	3	2
<b>Requests Referred to EAAC**</b>						
	0	0	4	1	5	2

\* Other includes withdrawn undertakings, withdrawn requests and undertakings under federal jurisdiction.

\* \* The referrals are counted according to the year in which the request was made to the Minister.



## Exemption Requests

The 64 exemption requests received during 1988-90 fall into the following categories:

### Ministry of Government Services

- capital construction projects for government facilities (10 projects)
- planning and development of land (6 projects)
- program exemption for MGS activities

### Ministry of Natural Resources

- 7 extensions of program exemptions for:
  - . disposition of Crown resources
  - . cottage lot development program
  - . provincial parks program
  - . federal/provincial employment program
- park visitor centre
- fish culture station program
- timber access road

### Municipalities

- landfill expansions (9 projects)
- new landfills (3 projects)
- clay extraction site
- electric transformer stations (2 projects)
- industrial park
- transportation corridor
- housing project

### Ministry of Environment

- site clean-up and remediation (10 projects, 1 program)
- leasing of Crown land for sewage disposal operation

### Ministry of Transportation

- property acquisition and construction for highway

### Ministry of Northern Development and Mines

- disposition of crown resources
- gold mine access road

### Ontario Hydro

- heat recovery systems program
- property acquisition for ash disposal

### Other

- private landfill expansion
- community college construction

In late 1989, the government instituted two administrative changes which should improve the process for considering exemptions under the Environmental Assessment Act. The Minister of the Environment approved a policy on exemptions for landfill expansions, which will apply to a significant number of expected exemption requests from municipalities. In addition, MGS was granted a program exemption for most of its activities while it is developing a class environmental assessment (see Referral #31). The number of individual exemptions granted to MGS, which



was one quarter of all exemptions, should therefore decrease significantly in the future. This underscores the need for MGS to have in place its class EA by January 1992, when the program exemption expires, so that there is a proper, agreed upon EA review process for MGS activities.

## **Bump-up Requests**

The 48 bump-up requests received during 1988-90 fall into the following categories:

### Projects under the Class EA for Municipal Road Projects

- 23 road projects

### Projects under the Class EA for Municipal Water and Sewage Projects

- 13 water supply projects
- 10 sewage and stormwater projects

### Projects under the Class EA for Water Management Structures for the Conservation Authorities of Ontario

- flood control plan
- creek diversion

The number of bump-up requests has increased dramatically in the last three years, following the approval in 1985 of two class environmental assessments for municipal projects. Most of these requests have been denied or decisions are pending. The class EAs provide a process for the public to request an individual environmental assessment where the routine "class process" is not felt to be sufficient. However, past experience shows that there is little likelihood of a project being bumped up, particularly without a referral to the Committee, and decisions on these requests have taken much longer than the 45 day period set out in the class EAs.

## Designation Requests

Table 2 shows the breakdown of designation requests between private and public sector undertakings received by the Minister during the past six years. Public sector designation requests are for public undertakings which have previously been exempted from the Environmental Assessment Act.

**Table 2** Designation Requests, April 1, 1984 - March 31, 1990

<u>Year</u>	<u>Private Sector</u>	<u>Public Sector</u>	<u>Total</u>	<u>Status as of March 31, 1990</u>			
				<u>Granted</u>	<u>Denied</u>	<u>Pending</u>	<u>Other*</u>
1984-85	2	3	5	-	5	-	-
1985-86	9	6	15	-	9	1	5
1986-87	15	8	23	2	5	4	12
1987-88	16	9	25	2	14	6	3
1988-89	19	7	26	3	15	5	3
1989-90	25	17	42	4	4	32	2

\* Other includes withdrawn undertakings, withdrawn requests and undertakings under federal jurisdiction.

The 68 designation requests received during 1988-90 fall into the following categories:

#### Waste Treatment/Disposal Facilities

- new or expanded landfills (4)
- incineration facilities (4)
- other facilities (3)

#### Hydro-electric Projects

- river basin development for hydro
- bank erosion project

#### Parks

- plan for provincial park
- provincial park policy

#### Marina/Docking Projects

- new facilities (6)

#### Other Municipal Undertakings

- recreation facilities (2)
- municipal boundary change
- drainage project
- sewage lagoon expansion
- bridge reconstruction

#### Gravel Pits/Quarries

- expansions (5)
- new sites (4)

#### Timber Management

- MNR timber management plans (6 plans)

#### Land Development

- subdivisions (11)
- high-rise developments (3)
- Official Plan Amendments (2)
- development in Rouge Valley

#### Other Private Sector

- road projects (3)
- resort developments (2)
- dam project
- asphalt plant
- mining development
- pulp mill

The number of designation requests increased significantly between the two reporting years, with few of the requests granted and most either denied or the decision is pending. It took on average, approximately 8 months to make decisions on 18 designation requests made during 1988-89. The time taken to make decisions on designation requests continues to be a matter of concern since, if the EA process is to apply, it should begin early in the planning process. The lack of established, publicly-stated criteria for making decisions on designation requests causes uncertainty for private sector proponents and the public, which lessens the credibility of the entire process.



## SUMMARY REMARKS: ISSUES AND OPPORTUNITIES

The Committee has been busy since its last reporting period with a total of 16 referrals in a two year period. The twelve referrals during the 1989-90 reporting period represents a significant and important increase in the use of the Committee as a vehicle for public input to decisions by the Minister. While the Committee continues to provide advice primarily on whether the Environmental Assessment Act should apply to particular undertakings, the focus of a number of recent referrals from the Minister has been on the adequacy of the land use planning and approval processes to address environmental concerns, particularly those arising from land use intensification.

The recent increase in designation requests concerning land development demonstrates a growing concern that the existing planning and approval processes do not ensure protection of the environment. In the Committee's referrals on the Etobicoke Motel Strip, Creditview Wetland, Ganaraska Watershed, Sydenham Mills Subdivision, Eagle Creek Golf Course and Subdivision, and Water Taking in the Holland Marsh, important questions were raised about whether planning and approvals made under existing legislation adequately consider environmental effects and cumulative impacts. In particular, there are legitimate concerns over incremental destruction of natural areas by public and private sector developments, and dissatisfaction with the mechanisms for environmental protection offered under the Planning Act.

It is clear to the Committee that the existing planning and approval processes do not adequately address the cumulative effects of individual proposals. Particularly in the south-central region of Ontario, where there is rapid urban and suburban expansion, these limitations are already critical. The urgency for resolution of these problems is growing as the environmental costs, including the loss of irreplaceable resources and natural areas, mount. Increasingly, the public is turning to the Environmental Assessment Act to address such concerns.

The Committee has now raised these issues in a number of reports and made a series of recommendations to improve the planning and approval process so that environmental concerns, including cumulative



effects, are properly addressed. A major, coordinated effort is required to meet the challenge of establishing mechanisms to ensure overall, long-term protection of the environment without creating costly delays in decision making. This will undoubtedly require a new vision, with major changes in legislation and administration; tinkering is not enough.

A second area of concern centres on requests for designation of timber management plans prepared by the Ministry of Natural Resources. Since February 1988, there have been 12 requests for designation of such plans, with 6 of these during the two year reporting period. Given that a decision of the EA Board on the Ministry of Natural Resources' Class Environmental Assessment for Timber Management is unlikely before 1992, an interim approach to resolving the disputes over timber management is required. Designation requests for several of these timber management plans date back to early 1988. These requests have received no response to date.

Related to this are the Committee's long-standing concerns about the process for handling exemption, designation and bump-up requests, as discussed in previous annual reports. These include:

- length of time to make decisions about the application of the Act,
- lack of criteria for determining application of the Act to private sector undertakings,
- use of exemption orders with detailed conditions, and
- lack of a policy to deal with interrelated economic planning and environmental issues in Northern Ontario.

These issues have yet to be resolved and remain as pressing today as they were several years ago. The full benefits of the Environmental Assessment Act as a planning and environmental protection tool will not be realized until these issues are resolved. Unfortunately the government's current review of the environmental assessment program is unlikely to resolve most of these issues in the near future. In the interim, action on these concerns could and should be initiated.

Many agencies and proponents have a fundamental apprehension of the environmental assessment process, and believe that environmental

concerns can be sufficiently addressed under other legislation. Environmental assessment, however, requires broader consideration of alternatives, and does not assume that all environmental effects can be mitigated. It can and should be the primary mechanism for environmental planning and making hard decisions. If administration of the Act is strengthened, at least some of the fears of its application should diminish. Every effort should be made to improve the administration of the Act and its coordination with other legislation in order to make environmental assessment a practical and effective process for the protection, conservation and wise management of the environment.







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***Ontario  
Environmental  
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Advisory  
Committee***

***8th and 9th Annual Reports***

***1990 - 1991***

***1991 - 1992***





## *8th and 9th ANNUAL REPORTS*

# **ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE**

*Covering the periods*

*April 1, 1990 - March 31, 1991*

*April 1, 1991 - March 31, 1992*



**Dr. Philip H. Byer, Chair**  
**Dr. Robert B. Gibson, Member**  
**Ms Christine S. Lucyk, Member**

**Committee Office:**  
**65 St. Clair Ave. East, 7th floor**  
**Toronto, Ontario M4T 2Y3**  
**(416) 323 - 2666**





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## COMMENTS BY THE COMMITTEE

The Ontario Environmental Assessment Advisory Committee provides advice to the Minister of the Environment on whether specific projects should be subject to the requirements of the Environmental Assessment Act and on other EA-related matters. The Committee, consisting of three members selected from outside the government, was established in 1983 to increase public input into the Minister's decisions on these matters.

The Committee has had a challenging and busy two years since our last bi-annual report. Our review of the Environmental Assessment program in Ontario, which addressed both legislative and administrative reforms, was opportune in that it coincided with increasing demands by the public to participate in environmental decision making. Many members of the public have been reconsidering their assumptions about environmental planning in Ontario and have been actively challenging the adequacy of present practices and procedures to address what they see as diminishing environmental resources. At the same time, many agencies and private sector companies have been trying to come to terms with the need to protect the environment while at the same time implementing their programs efficiently and effectively during a recession. These forces are often in conflict. The review of the EA program provided an opportunity for a serious reconsideration of environmental decision making under the EA Act and how it

can be made more efficient without jeopardizing the fundamental principles needed to protect the environment and to include the public effectively and fairly in this decision making process.

Our other referrals have also raised significant issues that were not only case specific but also representative of more generic issues related to environmental planning in Ontario. These have included questions of how we protect significant environmental resources through the existing land use planning and approval processes. Our referrals concerning environmental planning and approvals in Grey County (no. 41), development of the Eagle Creek golf course adjacent to a wetland (no. 44) and an Official Plan Amendment for an area on the Oak Ridges Moraine (no. 49) demonstrated the need for more rigorous review and approval procedures in order to ensure the identification and protection of significant environmental resources. The recently announced Wetlands Policy Statement under the Planning Act is an example of a mechanism intended to provide increased protection for important environmental features.

Timber management in Ontario has been controversial for many years. Concerns have been raised by the public about timber management practices and how they impact on the sustainability of forests, wildlife, wildlife habitat and other forest uses such as tourism operations and provincial parks. While many of these issues are being addressed by the

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Environmental Assessment Board hearing on the Class Environmental Assessment for Timber Management, the Committee was asked to provide interim guidance on some local timber management plans until a decision on the Class EA is made (expected in late 1993). We reviewed three individual cases which involved conflicts between timber activities and cottagers and between timber activities and remote tourism operations. In addition, we reviewed the Exemption Order under the EA Act which provides the direction to the Ministry of Natural Resources on how it may undertake timber management activities without an environmental assessment.

Another important part of the EA program is the use of two class EAs which apply to municipal road, water and sewage projects. These class EAs cover numerous municipal undertakings which together, and often individually, are environmentally significant. Many of these projects raise local concerns which can result in requests to the Minister to "bump up" the project to require an individual EA. In our previous annual report, we summarized a referral (no. 42) where we had evaluated these class EAs. Since then, the Municipal Engineers' Association has revised the class EAs and submitted them for approval to the Minister. Following a public review, concerns were raised about bump-up procedures and the inclusion under the class EAs of both large municipal projects and infrastructure projects undertaken by private sector developers. In order to be able to address these

concerns, the Minister has extended the current municipal class EAs until May 1993. In addition, the Commission on Planning and Development Reform in Ontario is looking into mechanisms to coordinate more effectively decision making on municipal infrastructure with land development decisions.

In addition, both the EA Branch of the Ministry and the Environmental Assessment Board have been actively working on administrative improvements to the EA program and Board hearings.

With all of these activities, the EA program is at a cross-roads. The Committee is confident that, with a commitment to the principles of environmental assessment and proper legislative and administrative reforms, the EA program can be effective, fair and efficient.

Finally, the Committee is proud to have received the J.R. Dymond Public Service Award from the Federation of Ontario Naturalists in 1992 "in recognition of distinguished public service resulting in exceptional environmental achievement."

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## **ENVIRONMENTAL ASSESSMENT ACT**

The Environmental Assessment Act requires the proponent of a proposed undertaking to follow a planning process which addresses potential environmental concerns. The proponent must prepare a document called an environmental assessment which describes the purpose of and rationale for the undertaking, potential environmental effects of the undertaking and alternatives to it, and ways of mitigating adverse environmental impacts. Under the Act, there is a formal review of this document by the government, and the public may also review it and request a hearing on the matter before the Environmental Assessment Board.

The Environmental Assessment Act requires that environmental assessments be prepared for all public sector undertakings, which include activities, plans and programs of the Ontario Government, municipalities, and other public bodies such as Ontario Hydro and conservation authorities. A public sector proponent may, however, make a request to the Minister of the Environment to exempt a public undertaking from the requirements of the Act.

Private sector undertakings are subject to the requirements of the Act only when specifically designated. Individuals or groups may request the designation of a private sector undertaking. The Minister's decision to exempt or designate an undertaking is subject to the approval of Cabinet.

Some undertakings are subject to what is called a class environmental assessment which sets out a more streamlined planning process for a class of undertakings which have common characteristics, occur frequently, and generally have predictable and relatively minor impacts. Class environmental assessments generally have a provision which gives the public the right to request that an undertaking be "bumped-up" to a full, individual environmental assessment. If such a request is made, the Minister must decide whether to grant or refuse the request.

### ***ROLE OF THE COMMITTEE***

Upon receipt of a request for exemption, designation, or bump-up, the Minister may seek the advice of the Committee by referring the matter to the Committee. The Minister may also seek the Committee's advice on other matters relating to environmental assessment in Ontario. When the Committee receives a referral, it carries out a review of the request and reports to the Minister with its recommendations.

When referring a matter to the Committee, the Minister indicates which one of the following types of review is to be undertaken.



**Open Review** - The Committee gives public notice to and requests submissions from a wide range of interested groups, individuals and government agencies.

**Defined Review** - Public notice and consultation are limited to affected groups and individuals selected by the Minister and by the Committee.

**Internal Review** - There is no public notice or consultation.

In Open and Defined Reviews, the Committee generally holds a public meeting(s) in the evening near the location of the proposed undertaking. The Committee's public meetings allow for the proponent, government agencies, and public to make oral submissions to the Committee in a non-judicial setting. The Committee also invites written submissions.

The Committee normally reports to the Minister within six to ten weeks after receiving a referral.

In its reports to the Minister, the Committee considers reasons for or against an environmental assessment provided by the proponent, government agencies and the public. The Committee generally reviews the following issues:

- the potential environmental impacts of the undertaking;

- whether there are reasonable alternatives to the undertaking;

- the adequacy of other statutory approvals as a means of addressing environmental concerns;

- other opportunities for public input; and

- the urgency of proceeding with the undertaking.

The Committee does not take a position on whether or not the undertaking should be approved; instead, it recommends whether or not the use of the Environmental Assessment Act is appropriate. The Committee may, in some circumstances, work with the parties to develop terms and conditions which may become the basis for approval of a project without requiring an individual environmental assessment. The Committee's report is made public at the time the Minister makes a decision.

The Committee maintains a list of referrals and a public file for each referral. Copies of each of the Committee's reports to the Minister are available to the public on request.

The Committee also monitors and maintains a list of all exemption, designation and bump-up requests and the Minister's decisions on them. This list is also available to the public on request.



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## **MEMBERSHIP & OPERATION OF THE COMMITTEE**

The Committee consists of three part-time members, including a chair, who are appointed by the Minister of the Environment through an Order in Council.

Dr. Philip Byer has served as a member of the Committee since October 1985 and was appointed chair of the Committee in November 1986. Dr. Byer is an Associate Professor in the Department of Civil Engineering and the Institute for Environmental Studies at the University of Toronto. He is a professional engineer with expertise in waste management and in project evaluation in the environmental and transportation fields.

Dr. Robert Gibson has been a member of the Committee since October 1985. He is an Associate Professor in the Department of Environment and Resource Studies at the University of Waterloo. His work has centered on environmental ideology, policy and regulatory issues. Dr. Gibson co-directed an intensive study, published in 1986, of the environmental assessment process in Ontario.

Ms. Christine Lucyk was appointed as a member in November 1986. She has worked for both government and consulting firms as a specialist in economic analysis relating to resource management, land development and waste diversion. She is now a private consultant on environmental matters and

teaches land resource economics at York University.

The Committee operates with the assistance of a senior researcher/co-ordinator and an administrative assistant. The Committee's Senior Researcher/Co-ordinator is Ms. Pam Wheaton, a planner with a background in environmental issues. The Administrative Assistant to the Committee is Ms. Trish Shayne.

The operating cost of the Committee during the 1990-91 reporting year was \$201,685, and during 1991-92 was \$213,552. The chair and members are paid for their committee work at per diem rates of \$270 and \$180 respectively.

## **MINISTER'S DECISIONS IN 1990-92 ON PREVIOUS REFERRALS**

During 1990-92, the Minister announced decisions concerning five referrals which had come to the Committee prior to April 1, 1990 but for which decisions had not been made at the time of our last annual report. The following are updates on these referrals including the Minister's decisions on our recommendations.

### **Referral No. 38 - The Adequacy of the Existing Environmental Planning and Approvals Process for the Ganaraska Watershed**

The Committee was asked in July 1989 to review the adequacy of the existing

environmental planning and approvals process to protect the Ganaraska River watershed in view of potential development in the area. The referral arose from designation requests by local residents concerned about development in this area of Durham Region.

On November 15, 1989, the Committee submitted its report to the Minister with fourteen recommendations concerning environmental planning and approvals in the Ganaraska Watershed and across the Oak Ridges Moraine more generally. Our report and recommendations are summarized in our last annual report. In December 1989, the Minister released the report for public comment and received about sixty responses.

On January 22, 1992, the Minister announced the following in response to our recommendations:

- the recommended reforms to the planning and approvals process would be considered by the recently established Commission on Planning and Development Reform in Ontario;
- the Minister supports the use of environmental inventories in land use planning and will urge the Minister of Municipal Affairs to require the preparation and use of inventories in the land use planning process across the province including at the Official Plan stage;

- the newly developed Implementation Guidelines, Provincial Interest on the Oak Ridges Moraine Area of the Greater Toronto Area will serve to protect the Moraine in the short term while a long-term strategy is developed; and
- staff of the Ministry of Environment will be required to consider the potential cumulative impacts associated with development applications on the Moraine, and clear guidelines to assist staff will be developed as well as a Ministry policy regarding cumulative impact assessment.

#### **Referral No. 41 - The Adequacy of the Existing Environmental Planning and Approvals Process in Grey County**

The Committee was asked in November 1989 to review the adequacy of the existing planning and approvals process to address environmental concerns arising from land development in Grey County. Concerns had been raised by local citizens about the inadequate and unfair process for reviewing development applications in the County including reviews by both the County and provincial agencies. There were also competing views about the need for long-term land use and environmental resource planning for Grey County.

The Committee's report, which was submitted to the Minister on December 28, 1990, contained eighteen recommendations covering the following matters:

- provincial review of development applications in the County;
- Grey County review of development applications;
- the need for a comprehensive study of environmental resources in the County;
- the need for evaluation of alternative development patterns in the County;
- the need to revise the County Official Plan; and
- the need for a comprehensive public review of land use planning and approvals in the province.

On May 14, 1991, the Minister, in a joint decision with the Minister of Municipal Affairs, announced that Grey County would be required to develop a new County Official Plan and that consents in Grey County would be restricted. The broader recommendations by the Committee are being considered by the Commission on Planning and Development Reform in Ontario.

#### **Referral No. 43 - Extension of Approval of the Class EA for Water Management Structures by Conservation Authorities**

The Committee was asked in January 1990 to consider whether the Class Environmental Assessment for Water Management Structures should be extended for another five year period, and what changes if any should be made to the Class EA. The current Class EA applies to projects, undertaken by conservation authorities and municipalities, which address

problems associated with flooding, erosion, and sedimentation and having construction costs between \$175,000 and \$2.7 million. No environmental assessment is required for projects with construction costs less than \$175,000 while individual assessments are required for projects with construction costs over \$2.7 million.

On June 22, 1990, the Committee submitted its report recommending the following:

- a new Class EA should be developed;
- in the interim, the existing Class EA should be extended until no later than December 1992 with amendments in four areas - public involvement, consideration of nonstructural alternatives, acknowledgement of the environmental significance of impacts and monitoring of impacts;
- ACAO and MOE should develop these amendments in consultation with submitters; and
- all conservation authorities should be required to have watershed plans developed and approved under the EA Act, and these plans should be incorporated into the land use planning process.

On September 6, 1990, the previous Minister announced his decision to adopt the first three recommendations in principle. He also stated that the Ministries of Natural Resources and Municipal Affairs would be contacted to further study our fourth recommendation.



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**Referral No. 44 - Eagle Creek Golf Course & Subdivision in West Carleton - Requests for Designation**

The Committee was asked in January 1990 to review requests from the public for an environmental assessment of the 123 hectare Eagle Creek Golf Course and Subdivision in the Township of West Carleton. Concerns had been raised about the potential negative impacts of the golf course on the adjacent, provincially significant Constance Creek Wetland due to the use of chemicals on the golf course and the infilling of part of the wetland by the developer. Since the Ontario Municipal Board was conducting a hearing in the spring of 1990 on the rezoning of the site and conditions of draft plan approval for the development, the Committee submitted an interim report to the Minister on April 23 stating that it would wait until the OMB made a decision under the Planning Act before continuing with the referral.

Following the OMB's decision in August 1990 to repeal the zoning by-law and to alter conditions of draft plan approval for the Eagle Creek development, the Committee held a second public meeting in November 1990 and submitted a final report to the Minister on February 25, 1991 containing seven recommendations:

- the developer should be required under the Ontario Water Resources Act to

regulate, monitor and remediate discharges in the Wetland;

- the development should not be designated under the EA Act;
- the province should approve as soon as possible a Wetlands Policy Statement under the Planning Act;
- the Planning Act should be amended to prohibit activities affecting significant environmental resources prior to final approval under the Act;
- the province should amend or enact legislation to ensure protection of significant wetlands;
- government agencies, when providing review comments under the Planning Act, should clearly state the environmental issues that have been reviewed, that there may be other matters not addressed, and that the public may ask for an environmental assessment; and
- the Ministries of Environment, Natural Resources and Municipal Affairs should develop procedures to ensure that, early in the planning process, all parties are aware of significant environmental resources and of the right of the public to request an environmental assessment.

The Minister announced her decision on the Committee's recommendations on July 2, 1992.

Just prior to the Minister's decision, the government approved a Wetlands Policy Statement under the Planning Act.



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In her decision, the Minister expressed alarm about the destruction of 21 hectares of Class 1 wetland and about the OMB's decision to remove the approval authority of the Ministry of Natural Resources for the development's drainage plan. She determined, in accepting our recommendation not to require an EA for the development, that designation at this late stage would be relatively ineffective. The Minister, however, instructed the Ministry to consult with MNR to determine whether or not there are grounds for preparing an order under the Ontario Water Resources Act, the Environmental Protection Act, or the Pesticides Act to regulate, monitor and remediate discharges into the Constance Creek Wetland, and if there are grounds to proceed with preparing such an order.

The Minister shared the Committee's concern about the need to control site preparation activities affecting environmental resources that are now permitted under the Planning Act. The Minister indicated that she would be supporting amendments to the Planning Act or regulatory or policy development to address this. The Minister noted that the Commission on Planning and Reform in Ontario would be looking into this matter. The Minister also stated that she would be requesting MOE staff to consider the implications of amending the EA Act and Regulation 205/87 to restrict site preparation when a designation request has been made under the EA Act.

The Minister also supported our recommendation concerning comments by review agencies on applications under the Planning Act. She stated that she would request the Ministers of all commenting agencies to instruct that their comments on such applications include clear statements of the aspects of the environment that have been reviewed, and that other aspects of the environment may also be examined by other ministries. Within MOE, a policy will be developed and a memorandum will be issued to all planning and approval units to emphasize the need to provide clear statements outlining the focus and limitations of reviews and, where appropriate, of the right of the public to request a designation under the EA Act.

In response to our final recommendation, the Minister asked the Committee to coordinate discussions between agencies and the public concerning the development of ministerial procedures to ensure early awareness of environmental resources potentially affected by a development proposal. This review is being conducted during the fall of 1992.

**Referral No. 45 - Bradford Public Utilities Commission Well - Requests for Bump-up - and Watertaking in and near the Holland Marsh**

The Committee was asked in March 1990 to review requests for a bump-up to an individual EA of a proposed municipal well for the Town of Bradford to be located in the Holland Marsh in King Township. We were also asked to look

at the more general issue of watertaking as it relates to urban growth and farming activities in the Holland Marsh and adjacent areas in York Region and Simcoe County. Concerns had been raised about the potential negative and cumulative impacts of another well on the available groundwater, particularly given the sensitivity of the Holland Marsh and the water needs of the surrounding agricultural users.

On June 29, 1990, the Committee submitted its report to the Minister recommending that the project be bumped up to require an individual environmental assessment. The Committee also recommended the development of a Water Management Plan for the Holland Marsh area, and that this plan be subject to the requirements of the EA Act. If such a plan was not approved under the EA Act, the Committee recommended that an individual EA be required for additional ground water taking over 50,000 litres per day. In addition, the Committee recommended that the government comprehensively review its programs, policies, procedures and resources for ground water management related to land development pressures, and require and assist municipalities under development pressures to develop water management plans under the EA Act.

On August 31, 1990, the previous Minister accepted our recommendation to bump up the proposed well. The Minister also stated that our other recommendations were still being

reviewed. The Committee is unaware of any decisions since then on these recommendations.

## ***REFERRALS DURING 1990-92***

During the 1990-92 reporting period, the Committee received referrals and reported to the Minister on the following three matters:

- review of the Environmental Assessment Program in Ontario;
- requests for designation of 3 Timber Management Plans and review of Exemption Order MNR-11/9 covering timber management activities; and
- requests for designation of an Official Plan Amendment for the Lake Wilcox-Oak Ridges Planning District in the Town of Richmond Hill.

The following are brief descriptions of these reviews.

### **Referral No. 47 - Review of the Environmental Assessment Program in Ontario**

In 1988, the Ministry began a project to review and improve the EA program. This resulted in a discussion paper entitled "Toward Improving the Environmental Assessment Program in Ontario" prepared by a task force in the Ministry. In July 1990, the Committee was asked by the previous Minister to undertake



public consultation and provide advice on recommendations contained in the discussion paper. This referral was confirmed by the new Minister on December 11, 1990.

During 1991, we consulted with a broad range of groups, individuals and agencies through 7 public meetings across the province, workshops focused on specific topics and written submissions. Over 170 submissions were received. Our report was submitted in two parts, Part 1 on October 31, 1991 and Part 2 on January 27, 1992. Since then, the Minister and Ministry have been reviewing our recommendations.

**Referral No. 48 - Timber Management Plans: Exemption Order MNR-11/9 and Designation Requests on three TMPs**

On August 31, 1990, the Committee was asked by the previous Minister to review several matters concerning timber management:

- possible amendments to Exemption Order MNR-11/9, which exempts timber management on Crown land by the Ministry of Natural Resources from the requirements of the EA Act until the Class EA for such activities is approved; and
- designation requests concerning timber management in three areas covered by Timber Management Plans (TMPs) for the Timmins Forest, the Magpie Forest, and the

Ranger Lake, Peshu Lake and Superior Forests.

This referral was confirmed by the new Minister on December 11, 1990.

The requests for designation of the Timmins Forest TMP were based on unresolved concerns raised by the Marceau Lake Cottagers' Association over the no cut reserve around Marceau Lake. Quebec and Ontario Paper Company Limited, which holds the Forest Management Agreement for the Timmins Forest, the Ministry of Natural Resources and the cottagers were unable to come to an agreement about acceptable cutting practices and co-management of the area.

The requests for designation of the Magpie Forest TMP and of the Ranger Lake, Peshu Lake and Superior Forest TMPs were based on the concerns of remote tourist operators over the adverse and potentially irreversible impacts of timber cutting activities and associated access roads on their camps, wildlife and wildlife habitat.

The Committee held public meetings in Timmins, Sault Ste Marie, Wawa and Toronto in February 1991 and submitted its report on June 11, 1991. The Minister made her decision on November 19, 1991.

With respect to the exemption order MNR-11/9, the Committee recommended revisions to:

- expand the timber management planning team membership to include other forest users;
- improve the timeframe for public consultation on TMPs;
- consolidate planning for timber access roads formally as part of timber management planning; and
- prohibit timber activities related to a designation request until a decision is made on the request.

In her decision, the Minister stated that the exemption order would be revised to address our recommendations, but instead of requiring expanded planning teams, Stakeholder Committees would be established as an experiment in 10 areas. The exemption order was replaced by MNR-11/10 on August 20, 1992 reflecting these changes.

In criticizing the Ministry's handling of designation requests on TMPs, the Committee recommended the establishment of a new advisory committee, or expansion of EAAC to include a northern member, to automatically review all designation requests on timber activities. The Minister decided that a new member would be appointed to EAAC from northern Ontario, but that referrals of designation requests would continue to be made on a case by case basis. (In addition to the three specific cases reviewed by the Committee, there were, at the time of our review, outstanding requests for environmental assessments of eight other timber management

plans. At the same time as her decision on our recommendations, the Minister denied five of these eight requests.) Since our report, no other timber-related cases have been referred to the Committee.

The Committee also recommended that our report be presented to the EA Board hearing on the Class EA for Timber Management. The Minister agreed with this recommendation, and the report was tabled at the hearing shortly thereafter.

The Minister also accepted our recommendation that the Timmins Forest TMP not be designated provided a no cut buffer zone is established around Marceau Lake as defined by an amended viewscape.

As recommended by the Committee, the Minister also decided to require an environmental assessment of a large area around Megasin Lake within the Ranger Lake, Peshu Lake and Superior Forest management units, although the area designated was smaller than the one we recommended. Our recommendation for an expanded planning team to direct this EA was not accepted.

With respect to the designation requests on the TMP for the Magpie Forest, we recommended against designation provided that certain precautions are taken regarding the gating of all new access roads, the approval period of new roads and enforcement of existing prescriptions. Although the Minister accepted



our recommendation not to designate the Plan, she did not accept our recommendation for gating of roads or limited road approvals. However, she stated that she would ask MNR to vigorously enforce other restrictions on the use of timber access roads. The Minister also accepted our final recommendation that MNR undertake studies of the impacts of timber management activities and public access on non-timber resources and the remote tourism industry for incorporation into the next Magpie Forest Management Plan.

**Referral No. 49 - Richmond Hill OPA #71 (Secondary Plan for the Lake Wilcox - Oak Ridges Planning District) - Requests for Designation**

On September 4, 1990, the Committee was asked by the previous Minister to review and provide advice on requests from the public for an environmental assessment of the Town of Richmond Hill's Official Plan Amendment #71. This referral was confirmed by the new Minister on October 30, 1990. This OPA would provide for land use changes in the Lake Wilcox-Oak Ridges Planning District. The Committee was also asked to consider the effectiveness of master drainage plans in protecting environmentally sensitive areas such as the Oak Ridges Moraine.

The Committee held public meetings and reported to the Minister on March 22, 1991 with the following recommendations concerning this environmentally significant and sensitive area:

- OPA #71 should be subject to the requirements of the EA Act;
- the provincial working committee for the Oak Ridges Moraine should provide technical assistance to the Town in carrying out the EA;
- until a new OPA is approved, the province should not allow any new subdivisions or rezonings, and MOE should not grant approvals for watertaking, water works and sewage systems, in the Planning District; and
- the province should, as soon as possible, finalize its interim Guidelines for land use changes on the Moraine including provisions to address cumulative impacts, and should ensure public involvement in preparing longer term requirements to protect the Moraine.

On August 21, 1991, the Minister announced her decision not to accept our recommendation to designate OPA #71. Instead she directed the Town of Richmond Hill to re-evaluate the OPA to bring it into conformity with the province's new Interim Guidelines for Development on the Oak Ridges Moraine. These guidelines, announced on June 24, 1991, were designed to provide a framework for the evaluation of the impact of development proposals on the Oak Ridges Moraine while the province is undertaking a planning study to establish a long term means of protecting the Moraine's sensitive features. The Minister's decision stated that the Town will need to re-evaluate

development patterns and densities in the area to protect sensitive environmental features, landforms and natural systems, and that it will need to demonstrate how water quality will not be adversely affected by the proposed development.

### **MONITORING OF EXEMPTION, BUMP-UP AND DESIGNATION REQUESTS**

In addition to providing advice to the Minister of the Environment on individual requests for exemption, designation or bump-up, the Committee monitors and maintains a public list of all such requests.

During the 1990-91 reporting period, the Minister received requests concerning 98 undertakings: exemption requests for 13, bump-up requests for 44, and designation requests for 41.

During the 1991-92 reporting period, the Minister received requests concerning 81 undertakings: exemption requests for 19, bump-up requests for 37, and designation requests for 25.

Table 1 summarizes the status of these requests as of September 30, 1992. Tables 2, 3, 4 and 5 give more details on these requests.

Of the requests during the two year period, one has been referred to the Committee

- bump-up requests for the Ajax-Pickering Water Supply Plant which was referred in 1992-93. (Our referrals during 1990-92 involved designation requests made to the Minister prior to this reporting period).

As in previous years, the majority of bump-up requests (72 of 81) involve the Class EAs for Municipal Roads and Sewage and Water Projects. Although designation requests have dropped in this past year, they continue to raise questions about the application of the Act to significant private sector projects. As shown in Table 1, three projects have been bumped up and two have been designated: bump ups of expansion of Toronto's Main Sewage Treatment Plant, a road widening in the City of London and sewage and water treatment plant expansions in Mara Township on Lake Simcoe; and designations of a terminal for the transportation of dangerous goods across the Detroit River, and a private landfill in Warwick Township.

The Committee continues to have concerns about the lack of publicly-accepted criteria for decisions on bump-up and designation requests, and the time taken for making these decisions. The Environmental Assessment Branch of the Ministry has taken steps to help address these problems by developing Interim Criteria for Evaluating Exemption, Designation and Bump-up Requests, which will be reviewed after their use for a year. The Committee hopes there will be a public review and Ministerial

decision on these criteria before they are finalized.

The Branch also is attempting to complete their reviews of requests more efficiently. However, it is generally very difficult for decisions to be made on bump-up requests within the 45 day period set out in the municipal class EAs.

Also, in the case of municipal class EAs, bump-up requests that are received prior to

completion of an Environmental Study Report (ESR) are, as a matter of course, treated as "premature". While this is appropriate for the majority of requests received early on in the municipal class EA planning process, it is important that particularly contentious and significant projects be identified early and, where warranted, bumped up, rather than waiting for the proponent to complete the class process and then be required to begin again under the individual EA process.

**Table 1**

**Undertakings for which Exemption, Designation, or Bump-up was Requested,  
April 1, 1990 - March 31, 1991 and April 1, 1991 - March 31, 1992**

	<b>Exemption</b>		<b>Bump-up</b>		<b>Designation</b>	
	<b><u>90-91</u></b>	<b><u>91-92</u></b>	<b><u>90-91</u></b>	<b><u>91-92</u></b>	<b><u>90-91</u></b>	<b><u>91-92</u></b>
<b>Total Requests</b>	13	19	44	37	41	25
<b>Status (as of September 30, 1992)</b>						
Granted	12	15	2	1	1	1
Denied	0	0	27	19	22	16
Pending	0	3	4	11	12	6
Other*	1	1	11	6	6	2
<b>Requests Referred to EAAC**</b>	0	0	0	1	0	0

\* Other includes undertakings under federal jurisdiction, withdrawn undertaking withdrawn requests, and requests which were considered premature.

\*\* The referrals are counted according to the year in which the request was made to the Minister.



**Table 2 - Categories of Exemption Requests for 1990 - 92 (32 undertakings)**

**Municipalities**

- 11 municipal interim landfill expansions \*
- 1 municipal waste amendment
- 3 municipal clean-ups and remediation
- 2 marina and waterfront developments
- 1 public amenities development area
- 1 municipal water project

**Ministry of Natural Resources**

- 1 Crown land disposition for cottage lots
- 1 parks management program extension
- 1 socio-economic improvements - Lac La Croix
- 1 special employment program

**GO Transit**

- 2 projects

**Ministry of Government Services**

- 1 land disposition to a municipality
- 1 land management program extension

**Ministry of Transportation**

- 1 airport project

**Ministry of Northern Development and Mines**

- 1 mine rehabilitation

**Ministry of Environment**

- 2 site clean-ups and remediation

**Private Sector**

- 1 interim landfill expansion

\* There is a MOE policy on interim landfill expansions.

**Table 3 - Categories of Bump-up Requests for 1990 - 92 (81 undertakings)**

**Class EA for Municipal Road Projects**

- 38 road projects

**Class EA for Municipal Sewage and Water Projects**

- 34 sewage and water projects

**Ministry of Transportation**

**Class EA for Provincial Highways**

- 4 highway projects

**Ontario Hydro's Class EAs**

- 1 upgrading of a transmission line
- 1 redevelopment of a generating station

**Ontario Conservation Authorities' Class EA**

**for Water Management Structures**

- 1 channel dredging
- 1 shoreline stabilization

**Ministry of Natural Resource's Class EA for Timber Access Roads**

- 1 timber access road



**Table 4 - Categories of Designation Requests for 1990 - 92 (66 undertakings)**

**Gravel Pits/Quarries**

- 6 new gravel or mineral extraction projects
- 1 quarry expansion

**Timber Management Activities**

- 9 MNR timber management plans
- 1 timber access road

**Waste Treatment/Disposal Facilities**

- 4 private landfills
- 1 private landfill expansion
- 2 biomedical waste incinerator

**Other Private Sector**

- 1 marina development
- 1 storage/burial of tires
- 1 handling of dangerous goods
- 1 aggregate shipping route
- 1 cottage lot development
- 1 construction of fish pond

**Hydro-electric Projects**

- 3 private sector hydro generation projects
- 3 public sector hydro generation projects

**Land Development Projects**

- 15 residential developments
- 2 large mixed land use developments
- 1 OPA involving development for mixed uses
- 1 marina development
- 1 waterfront park
- 1 sports complex
- 1 industrial park

**Other Public Sector**

- 1 lake dredging and draining
- 1 school relocation
- 1 fish ladder
- 1 removal of trolley busses
- 1 natural gas pipeline expansion
- 1 road drain
- 1 transitway
- 1 rail repair yard

**Table 5 - Status of Designation Requests**  
**April 1, 1984 - March 31, 1992**

<u>Year</u>	<u>Private Sector</u>	<u>Public Sector **</u>	<u>Total</u>	<u>Status as of September 30, 1992</u>			
				<u>Granted</u>	<u>Denied</u>	<u>Pending</u>	<u>Other*</u>
1984-85	2	3	5	-	5	-	-
1985-86	9	6	15	-	9	1	5
1986-87	15	8	23	2	5	2	14
1987-88	16	9	25	2	18	1	4
1988-89	19	7	26	3	16	2	5
1989-90	25	16	41	5	25	7	4
1990-91	24	17	41	1	22	12	6
1991-92	13	12	25	1	16	6	2

\* Other includes withdrawn undertakings, withdrawn requests and undertakings under federal jurisdiction.

\*\* Public sector designation requests are for public undertakings which are either not subject to the Environmental Assessment Act or have previously been exempted.







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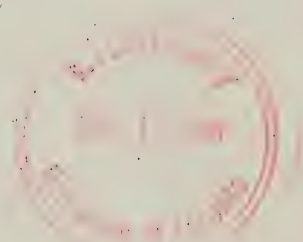
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**ONTARIO  
ENVIRONMENTAL  
ASSESSMENT  
ADVISORY  
COMMITTEE**

***11th Annual Report***

***1993-1994***

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## *11th ANNUAL REPORT*

# *ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE*

*Covering the period*

*April 1, 1993- March 31, 1994*

Dr. Philip H. Byer, Chair  
Dr. Robert B. Gibson, Member  
Ms Christine S. Lucyk, Member  
Mr. David R. Hahn, Member

Ms Pam Wheaton, Senior Researcher  
Ms Trish Shayne, Admin. Assistant

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## COMMENTS BY THE COMMITTEE

During the 1993-94 reporting period, a significant component of the Committee's work involved ongoing discussions with the Ministry about the Committee's role in reviewing draft documents being developed as part of the administrative reforms to the EA Program. The Committee was also involved in follow-up discussions concerning several previous referrals. While these types of activities are important, the Committee believes that it could have been more effectively used by providing for public input and advice to the Minister on important cases where there have been exemption, designation and bump-up requests. (The Committee notes, however, that shortly following this reporting period, the Minister referred several significant cases.)

Since July 1993, when the Minister announced the government's decision to proceed with administrative reforms to Ontario's EA Program, the Ministry has been developing new guidelines and policies and revising existing ones in order to improve the efficiency and clarity of EA requirements for all participants in the program.

While some of the documents are being put into direct use after they are completed, others are being referred to the Committee for either internal review (without public consultation) or full public review. In April 1994 (immediately following this reporting period), the Minister advised the Committee that he would be

referring some of the draft documents, as follows:

- for public reviews in 1994,

- Class EA Guideline,
- Program/Plan/Proposal EAs Guideline,
- Bump-ups, Exemption and Designation Criteria Policy and Guideline,
- Role of the EA Branch Review Coordinator Guideline,

- for public reviews in 1995,

- Compliance and Effects Monitoring Guideline,
- Cumulative Effects Guideline,

- for internal reviews in 1994,

- Minister's Written Decision Policy,
- EA Glossary Policy,
- Timing of EA Review and Decision Making Process Policy,
- Regulation 334 Revisions, and

- for internal reviews in 1995,

- EA Document Contents Regulation,
- Private Waste Designation Regulation,
- EA/Planning Act Coordination Policy.
- Cumulative Effects Regulation.

Since the Minister's referral in April, the Ministry has decided to title all policies and guidelines as 'guidelines' in keeping with an

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overall Ministry initiative. Therefore, the 'policy' documents may now be entitled 'guideline' as they are being developed and put into use.

Our reviews will provide an opportunity for the public, proponents and agencies to participate in the development of clear, practical documents that will streamline the EA process while at the same time make it more effective.

Other matters of continuing interest to the Committee are the Class EAs for Municipal Road Projects and Municipal Water and Wastewater Projects, which were revised and approved in June 1993. It is important to note that through these revised Class EAs, potentially significant water, wastewater and road projects by the private sector were, for the first time, made subject to EA requirements. These Class EAs also allowed for the exemption of such private sector projects if planning for them, through the land use approvals process under the Planning Act, provided essentially equivalent information and public input.

Following the approval of these revised Class EAs, municipalities and private developers raised concerns, which resulted in the development of further amendments that were approved in June 1994. These amendments will allow many environmentally significant private sector projects, such as water and sewage systems or roads being built as part of

subdivision agreements, to be undertaken without having to meet requirements that are equivalent to those in the Class EAs. As more municipalities look to the private sector for assistance in implementing municipal service projects, these amendments have potentially significant implications.

Prior to the approval of these amendments, the Committee raised concerns about both the amendments and the lack of consultation with the public and environmental groups during their development. Public input was only sought by way of formal public notice after negotiations had been completed between the Ministry and municipal and private sector representatives.

On another matter, the Committee notes that during 1993-94, the Advisory Committee on Environmental Standards (ACES) carried out a public review of the standard for tritium in drinking water. The ACES review arose out of our 1992 recommendations concerning requests for an individual EA of a new water supply plant for Pickering and Ajax. One of the major issues raised in our review was the level of tritium in the drinking water from the nearby Pickering Nuclear Power Plant. ACES recommended a significant reduction in the tritium standard, which the Minister is expected to decide upon in late 1994.

Another recommendation in our report on the water plant was for the establishment of a Durham Nuclear Health Committee, including



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local residents, elected officials, Ontario Hydro, plant workers, Atomic Energy Control Board and the Ministries of Health and Environment and Energy to provide a forum to address local health concerns related to all radionuclides. While the Ministry has been coordinating discussions amongst these groups, no decision has been made on its establishment or terms of reference.

The Committee continues to undertake reviews of designation, exemption and bump-up requests as requested by the Minister. During 1993-94, the Minister referred two cases to the Committee - requests to bump-up GO Transit's proposed service expansions for the Milton and Richmond Hill lines. As part of these referrals, the Minister also asked the Committee to review proposed revisions to GO Transit's Class EA. The details of these reviews are discussed below under Referrals to the Committee.

The Committee also continues to monitor all designation, bump-up and exemption requests. Designation requests for 1993-94 generally fall into 4 main categories: timber management plans, land development projects, waste disposal facilities, and other private and public sector activities.

The majority of bump-up requests fall under the Class EAs for Municipal Roads and Municipal Sewage and Water Projects. The remainder of bump-up requests are distributed among Class EAs of the Ministry of

Transportation, Conservation Authorities and GO Transit.

Exemption requests were received for the following types of projects: municipal landfill interim expansions, and projects by the Ministries of Natural Resources and Transportation.

The pattern of denial of virtually all designation and bump-up requests has continued during this past reporting period. The Ministry has draft criteria for reviewing and making recommendations to the Minister on designation, bump-up and exemption requests. The Committee expects to undertake a public review of these criteria in late 1994. Publicly developed and acceptable criteria should provide greater credibility and clarity to the decision making process on these requests.

As noted in our 1992-93 Annual Report, the Committee's membership changed in 1993 as Bob Gibson retired from the Committee in September 1993 after eight years. His commitment and insights to the EA process were invaluable and will be missed.

## **ENVIRONMENTAL ASSESSMENT ACT**

The Environmental Assessment Act requires the proponent of a proposed undertaking to follow a planning process which addresses potential environmental concerns. The proponent must prepare a document called an environmental

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assessment which describes the purpose of and rationale for the undertaking, potential environmental effects of the undertaking and alternatives to it, and ways of mitigating adverse environmental impacts. Under the Act, there is a formal review of this document by the government, and the public may also review it and request a hearing on the matter before the Environmental Assessment Board.

The Environmental Assessment Act requires that environmental assessments be prepared for all public sector undertakings, which include activities, plans and programs of the Ontario government, municipalities, and other public bodies such as Ontario Hydro and conservation authorities. A public sector proponent may, however, make a request to the Minister of Environment and Energy to exempt an undertaking from the requirements of the Act.

Private sector undertakings are subject to the requirements of the Act only when specifically designated. Individuals or groups may request the Minister to designate any private sector undertaking.

The Minister's decision to exempt or designate an undertaking is subject to the approval of Cabinet.

Some undertakings are subject to what is called a class environmental assessment which sets out a more streamlined planning process for a class of undertakings which have common characteristics, occur frequently, and generally

have predictable and relatively minor impacts. Class environmental assessments generally have a provision which gives the public the right to request that an undertaking be "bumped-up" to a full individual environmental assessment. If such a request is made, the Minister must decide whether to grant or refuse the request.

### *ROLE OF THE COMMITTEE*

The Ontario Environmental Assessment Advisory Committee provides advice to the Minister of Environment and Energy on whether specific projects should be subject to the requirements of the Environmental Assessment Act and on other EA policy-related matters. The Committee, whose members are selected from outside government, was established in 1983 to increase public input into the Minister's decisions on these matters.

The Minister may seek the advice of the Committee on any request for designation, exemption or bump-up by referring the matter to the Committee. The Minister may also seek the Committee's advice on other matters relating to environmental assessment in Ontario. When the Committee receives a referral, it carries out a review of the request and reports to the Minister with its recommendations.

When referring a matter to the Committee, the Minister indicates which one of the following types of review is to be undertaken.



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**Open Review** - the Committee gives public notice to and requests submissions from a wide range of interested groups, individuals and government agencies.

**Defined Review** - Public notice and consultation are limited to affected groups and individuals selected by the Minister and by the Committee.

**Internal Review** - There is no public notice or consultation.

In Open and Defined reviews, the Committee generally holds a public meeting(s) in the evenings near the location of the proposed undertaking. The Committee's public meetings allow for the proponent, government agencies, and public to make oral submissions to the Committee in a non-judicial setting. The Committee also invites written submissions.

The Committee normally reports to the Minister within eight to ten weeks after receiving a referral.

In its reports to the Minister, the Committee considers reasons for or against an environmental assessment provided by the proponent, government agencies and the public. In making its recommendations, the Committee generally reviews the following issues:

- the significance of potential environmental impacts of the undertaking;

- whether there are reasonable alternatives to the undertaking;

- the adequacy of other statutory approvals to address the environmental concerns;

- past and future opportunities for public input; and

- the urgency of proceeding with the undertaking.

The Committee does not take a position on whether or not the undertaking should be approved; instead, it recommends whether or not the use of the Environmental Assessment Act is appropriate. The Committee may, in some circumstances, work with the parties to develop terms and conditions which may become the basis for approval of a project without requiring an individual environmental assessment. The Committee's report is made public at the time the Minister makes a decision.

The Committee maintains a list of referrals and a public file for each referral. Copies of each of the Committee's reports to the Minister are available to the public on request.

The Committee also monitors and maintains a list of all exemption, designation and bump-up requests and the Minister's decisions on them. This list is also available to the public on request.

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## **MEMBERSHIP & OPERATION OF THE COMMITTEE**

The Committee consists of part-time members, including a chair, who are appointed by the Minister of Environment and Energy through an Order-in-Council.

Dr. Philip Byer has served as a member of the Committee since October 1985 and was appointed Chair of the Committee in November 1986. Dr. Byer is a Professor in the Department of Civil Engineering and the Institute for Environmental Studies at the University of Toronto. He is a professional engineer with expertise in waste management and in project evaluation in the environmental and transportation fields.

Dr. Robert Gibson, an Associate Professor in the Department of Environment and Resources Studies at the University of Waterloo was a member of the Committee from October 1985 to September 1993. His work centers on environmental ideology, policy and regulatory issues.

Ms Christine Lucyk was appointed as a member in November 1986. She has worked for both government and consulting firms as a specialist in economic analysis relating to resource management, land development and waste diversion. She is now a private consultant on environmental matters and teaches land resource economics at York University.

Mr. David Hahn, a private planning consultant in Frontenac County, was appointed to the Committee in January 1993. He has had considerable rural municipal experience in eastern Ontario including a term as Reeve of Bedford Township.

The Committee operates with the assistance of a senior researcher/co-ordinator and an administrative assistant. The Committee's Senior Researcher/Co-ordinator is Ms Pam Wheaton, a planner with experience in environmental and northern Ontario issues. The administrative assistant is Ms Trish Shayne.

The operating cost of the Committee during the 1993-94 fiscal year was \$167,490. The chair and members are paid for their committee work at per diem rates of \$270 and \$180 respectively.

## **MINISTER'S DECISIONS ON PREVIOUS REFERRALS**

### **Referral No. 51 - Identification, Evaluation and Protection of Environmental Resources**

On July 5, 1992, the Minister asked the Committee for its advice on procedures for the identification, evaluation and protection of significant environmental resources before decisions are made on land development proposals. The Committee submitted its report on June 21, 1993 recommending the following:

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- establishment of a senior level inter-agency committee to develop an integrated, ecologically-based information and evaluation system for the protection of environmental resources;

- development by the inter-agency committee of a comprehensive list of current sources of ecologically relevant data, protection policies and programs; identification of data presently used for resource evaluation, major gaps in data, and the potential for and preferred means of integrating systems for information collection and distribution; description and evaluation of public accessibility to government data sources, use of present information sources, and the potential for and preferred means of involving the public fully in the collection and evaluation of data; and identification and analysis of overlaps in agency programs, guidelines and incentives, and the potential for and preferred means of integrating these programs.

After a long delay, on June 9, 1994, the Minister released the report to the public indicating that he was asking the Environmental Planning Branch of the Ministry to consult with other Ministries to determine the best way to address the recommendations and to set some immediate priorities.

#### Referral No. 52 - Brantford Southern Access Road - Requests for Bump-up

On November 2, 1992 the Minister asked the Committee to provide its advice on whether the Brantford Southern Access Road (BSAR) should be bumped up to require an individual environmental assessment. The Minister also asked the Committee to work with the affected parties to determine whether or not the public concerns would be amenable to mediation.

The Committee submitted its report on January 18, 1993 concluding that there are fundamental and reasonable concerns about the BSAR which are not amenable to mediation. The Committee recommended that the BSAR should not proceed unless the dispute over the use of Native lands is resolved, and there has been a new assessment, with opportunities for meaningful public consultation, of Brantford's transportation needs including a full evaluation of alternatives to the BSAR.

As directed by the Minister, the Committee's report was released to those groups and individuals who participated in our review at the same time it was submitted to the Minister.

On March 30, 1994, the Minister denied the bump-up requests while at the same time indicating that the City of Brantford had proposed to defer the construction of the contentious part of the road, had committed itself to examine the issues identified by



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EAAC, particularly those involving First Nation Lands, and had agreed to prepare an addendum to the Environmental Study Report to address these concerns.

### ***REFERRALS DURING 1993-94***

During the 1993-94 reporting period, the Committee was asked to undertake two reviews for the Minister:

#### **Referral No. 53 - Review of Requests for bump-up of GO Transit's Proposed Rail Service Expansions for the Richmond Hill Line and Milton Line, and Review of GO Transit's Revised Class EA**

On December 2, 1993 the Minister asked the Committee to provide its advice on whether individual EAs should be required for two GO Transit rail service proposals: expansion of the Richmond Hill line between Oriole Junction in North York and Vandorf in Whitchurch-Stouffville and expansion of the Milton line between Milton and Union Station in Toronto. Planning for these had been carried out separately under GO's Class EA. Concerns had been raised about noise and vibration impacts in both cases, bio-physical impacts associated with the stations and layover yard on the Oak Ridges Moraine in the Richmond Hill case, and safety and risk associated with the transportation of dangerous goods on tracks shared with commuter trains in the Milton corridor.

In conjunction with our reviews of these two cases, the Minister also asked the Committee to review proposed changes to GO Transit's updated Class EA. The current Class EA expires on December 31, 1994. At the time of our review, both the revised Class EA and the Government Review of it were available for a public comment period which ended on March 16. The Committee had the benefit of the Government Review and public comments to make its recommendations.

The Committee held two public meetings on the Richmond Hill proposal in North York and Richmond Hill and one on the Milton proposal in Etobicoke. The Committee also met with representatives of affected provincial agencies.

Parts 1 and 2 of our Report on the Richmond Hill and Milton proposals were submitted on March 10. Part 3 on the GO Transit Class EA was submitted on April 15, 1994. As of September, no decisions had been made.

### ***MONITORING: EXEMPTION, BUMP-UP AND DESIGNATION REQUESTS***

In addition to providing advice to the Minister on individual requests for exemption, bump-up and designation, the Committee monitors and maintains a public list of all such requests.

During the 1993-94 reporting period, the Minister received requests concerning a total of 65 undertakings: exemption requests for 7; bump-



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up requests for 37; and designation requests for 21.

Table 1 summarizes the status of these requests as of August 31, 1994. Tables 2, 3, 4 and 5 give more details on these requests.

Of the requests made during 1993-94, one case was referred to the Committee following the end of this reporting period - requests for bump-up of the City of Toronto's Western Beaches Tunnel which was referred on May 6th. The referrals on GO Transit's expansion proposals were based on requests made during the 1992-93 reporting period.

The only grouping of exemptions concerned three interim expansions of municipal waste landfills for which there is a Ministry policy. The expansions are interim since the municipality is required by the policy to develop a waste management master plan.

Consistent with the pattern in previous years, the majority of bump-up requests (31 of 37) involve the Class EAs for Municipal Road Projects and Municipal Sewage and Water Projects. No projects were bumped up during this reporting period.

The public continues to request designations for a variety of projects (21), with the three main categories being land development projects, timber management plans, and waste disposal sites. During this reporting period, none of these projects was designated.

As discussed in earlier reports, the Committee continues to be concerned about the lack of designations and bump-ups from these requests. It is difficult to determine the appropriateness of this situation without a review of the process and the criteria upon which these decisions are based.

**Table 1**  
**Undertakings for which Exemption, Designation, or Bump-up was Requested,**  
**April 1, 1993- March 31, 1994**

	Exemption	Bump-up	Designation
<b><u>Total Number of Requests</u></b>	7	38	21
<b><u>Status (as of August 31, 1994)</u></b>			
Granted	7	0	0
Denied	0	17	10
Pending	0	15	7
Other*	0	6	4
<b>Requests referred to EAAC**</b>	0	1	0

\* Other includes undertakings under other provincial or federal jurisdiction, withdrawn undertakings, withdrawn requests, and requests which were considered premature.

\*\* The referrals are counted according to the year in which the request was made to the Minister, not in the year in which the referral was made to EAAC.

**Table 2 - Categories of Exemption Requests for 1993-94 (7 undertakings)**

<b>Municipalities</b>	<b>Ministry of Natural Resources</b>
2 municipal landfill interim expansions*	1 parks program expansion**
1 land acquisition for potential landfill expansion	1 deer culling program in provincial park
<b>Ministry of Transportation</b>	<b>Other</b>
1 Crown resource aggregate extraction plan	1 college campus development

\* There is a MOEE policy on interim landfill expansions

\*\* A Class EA for this program is being developed

**Table 3 - Categories of Bump-up Requests for 1993-94 ( 37 undertakings)**

<b>Municipal Road Projects</b>	<b>Municipal Sewage and Water Projects</b>
21 road projects	10 sewage and water projects
<b>GO Transit</b>	<b>Conservation Authorities</b>
1 station expansion	1 dam remodelling project
1 new station	1 flood control plan
<b>Ministry of Transportation</b>	
2 highway widening projects	

**Table 4 - Categories of Designation Requests for 1993-94 (21 projects)**

<b>Timber Management Activities</b>	<b>Land Development Projects</b>
3 timber management plans	6 residential/subdivision developments
<b>Waste Disposal Facilities</b>	<b>Other Public Sector Projects</b>
2 waste disposal sites	1 sports field complex
1 soil processing and transfer station	1 park management plan
1 composting facility	1 TTC yard expansion
<b>Other Private Sector Projects</b>	1 land transfer
1 sports coliseum	1 First Nation land negotiations
	1 highway construction
	1 ferry fares increase

**Table 5 - Status of Designation Requests**  
**April 1, 1984 - March 31, 1994**

<u>Year</u>	<u>Private Sector</u>	<u>Public Sector**</u>	<u>Total</u>	<u>Status as of August 31, 1994</u>			
				<u>Granted</u>	<u>Denied</u>	<u>Pending</u>	<u>Other*</u>
1984-85	2	3	5	-	5	-	-
1985-86	9	6	15	0	9	0	6
1986-87	15	8	23	2	5	0	16
1987-88	16	9	25	2	18	0	5
1988-89	19	7	26	3	16	0	7
1989-90	25	16	41	6	29	0	6
1990-91	24	17	41	1	23	0	17
1991-92	16	17	33	1	26	4	2
1992-93	14	18	32	1	18	6	7
1993-94	7	14	21	0	10	7	4

\* Other includes withdrawn undertakings, withdrawn requests, undertakings under federal jurisdiction, and inactive files.

\*\* Public sector designation requests are for public undertakings which are either not subject to the Environmental Assessment Act or have previously been exempted.

















